

CONFIDENTIAL.

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403

PART 10.

FURTHER CORRESPONDENCE

RESPECTING THE

AFFAIRS OF TUNIS.

273

1898-99.

FO 403/273.

TABLE OF CONTENTS.

No.	Name.	No.	Date.	SUBJECT.	Page
1	Consul-General Sir H. Johnston	1	May 11, 1898	Female missionaries in south of Tunis. Case of Miss Cox and Miss Scott	1
2	To Consul-General Sir H. Johnston	6	25,	Missionaries in Tunis. Consents in views expressed	1
3	North Africa Mission	..	Jan. 11, 1899	Case of Miss Cox and Miss Scott. Transmits Memorandum, and asks for advice	2
4	Miss Cox to Mr. Gleeny	..	14,	Trial of Miss Cox and Miss Scott. Account of	7
5	North Africa Mission	..	21,	Trial of Miss Cox and Miss Scott. Sentence confirmed. Appeal made	9
6	" "	..	28,	Trial of Miss Cox and Miss Scott. Transmits letter from M. Guendot, showing prospect of judgment being reversed	9
7	To Consul-General Sir H. Johnston	2	Feb. 11,	British missionaries in Tunis. Transmits correspondence respecting case of Miss Cox and Miss Scott. Does case afford ground for representation to French Governor?	10
8	Consul-General Sir H. Johnston	10	Mar. 16,	Case of Miss Cox and Miss Scott. Reports respecting, and advises informal intervention on the part of Her Majesty's Ambassador at Paris	11
9	To Sir E. Monson ..	122	30,	Case of Miss Cox and Miss Scott. To communicate with French Government on the subject	13
10	Sir E. Monson ..	123	Apr. 2,	Case of Miss Cox and Miss Scott. Will make representations, but is far from sanguine as to their result	13
11	Consul-General Sir H. Johnston	13	1,	British Protestant missionaries in Tunis and Algeria. Transmits extract from "Dépêche Tunisienne" respecting	14
12	" "	14	8,	Unfavourable attitude of the French in Tunis towards British officials and British subjects. Gives instances of	16
13	" "	15	15,	Recruits for Maltese regiments from Tunis. Proclamation posted in Consulate. Question of giving offence to French authorities	18
14	To Consul-General Sir H. Johnston	4	29,	Recruits for Maltese regiments from Tunis. Approves action	19
15	Consul-General Sir H. Johnston	17	24,	Scottish archaeologists in Tunis. Their thanks tendered to French Minister for kindness shown by authorities. Improvement of tone towards British subjects	19
16	" "	19	26,	Situation in Tunis. Gives account of	19
17	Colonial Office .. Confidential	..	May 3,	Complaints of Maltese in Tunis. Sir H. Johnston should be instructed to press French Government to give attention to the matter	21
18	Sir E. Monson ..	254	14,	Case of Miss Scott and Miss Cox. Conversation with M. Doléme respecting	21
19	To Consul-General Sir H. Johnston	4	19,	Complaints of Maltese in Tunis. French Resident should be pressed to give answers to the representations made to him	22

No.	Name.	No.	Date.	SUBJECT.	Page
20	Sir E. Monson ..	273	May 26, 1899	French War Budget of 18-9. Transmits Colonel Dawson's Report on debate in Senate respecting ..	22
21	Consul-General Sir H. Johnston	26	28	Complaints of Maltese in Tunis. Treatment of cases by French Resident. Case of Antonio Pace might be pressed in Paris ..	23
22	"	27	June 10,	Custom-house precautions. Transmits "Journal Officiel Tunisie," containing Decree of the 20th May, 1899. Some arrangements seem to be contrary to British Treaty rights ..	24
23	Memorandum by Mr. Davidson	..	15,	Custom-house precautions in Tunis. Memorandum on Sir H. Johnston's No. 27 ..	25
24	To Law Officers ..	..	24,	Customs Decree. Transmits Nos. 22 and 23. Should Her Majesty's Government protest ..	27
25	Sir E. Monson ..	325	July 4,	Miss Cox and Miss Scott. Transmits Memorandum from French Government, showing that the ladies have infringed the law, and the proceedings were quite regular ..	27
26	Law Officers ..	..	6,	Customs Decree. Her Majesty's Government should protest. Gives grounds ..	28
27	To Acting Consul-General Lascelles	6	15,	Miss Cox and Miss Scott. Transmits Sir E. Monson's No. 325, giving answer of French Government respecting case of ..	29
28	"	1	14,	Customs Decree. Ambassador in Paris has been instructed to protest ..	29
29	To Sir E. Monson ..	140	18,	Customs Decree. Transmits Nos. 22, 23, and 26. Protest should be made ..	30
30	Mr Herbert ..	169	19,	Customs Decree. Transmits note addressed to French Government ..	30
31	To Mr. Herbert ..	116	28,	Note to French Government, protesting against Decree. Approves ..	31
32	Sir E. Monson ..	207	Sept. 8,	Customs Decree. Transmits French reply, stating that Her Majesty's Government have misunderstood bearing of Decree ..	31
33	Memorandum by Mr. Streetfield	..	15,	Customs Laws of Austria-Hungary, Belgium, and Italy. Information respecting ..	32
34	Sir E. Monson ..	232	Oct. 9,	Customs Decree. Transmits Memorandum by Mr. Austin Lee. No advantage in pressing matter ..	33
35	To Sir E. Monson ..	230	Dec. 13,	Customs Decree. To acknowledge M. Dejeune's note, and state that Her Majesty's Government must reserve rights with regard to limits of territorial waters ..	34
36	Sir E. Monson ..	280	20,	Customs Decree. Transmits note addressed to French Government ..	35

CONFIDENTIAL.Further Correspondence respecting the Affairs of Tunis:
1898-99.

PART 10.

No. 1.

Consul-General Sir H. Johnston to the Marquess of Salisbury. — (Received May 17.)

(No. 1.)
My Lord,

Tunis, May 11, 1898.

IN case a representation should be made to the Foreign Office on the subject of the treatment of certain female missionaries by the French authorities in the south of Tunis, I think it well to put your Lordship in possession of what I know upon the subject. Two missionaries, a Miss Cox and Miss Scott, belonging to the North African Mission, seem, from their own statement, to have been distributing books and tracts and otherwise carrying on religious propaganda in the south of Tunis in such a manner as to cause some excitement amongst the Arabs, and the French authorities intervened and in one case threatened them with legal proceedings. They complained to me that they are doing no more in the south of Tunis than what they have done in the north and in parts of Algeria, and have asked me to intervene.

I have declined to take any action in the matter, as it seems to me that the French authorities must be the best judges on the spot as to what degree of Christian propaganda should be carried on in districts where Mohammedanism is militant, and I have advised these ladies to abide in future by the advice given them on the spot by the French officials.

I regret to be obliged to observe, however, from what I have noticed at Kairwan and elsewhere, that English missionaries in Tunis are often very unwise and provoke action on the part of the French authorities by their procedure. Kairwan, it must be remembered, until a few years ago was a city only second to Mecca in holiness and Mohammedan fervour. I think it speaks well for the French liberal-mindedness that they should allow Christian missionaries to reside in this place at all, and that they should accord them protection. The least these missionaries can do on their part is to conform to French Regulations in not carrying on their work in such a manner as to excite the fanaticism of the Arabs.

I have, &c.
(Signed) H. H. JOHNSTON.

No. 2.

Foreign Office to Sir H. Johnston.

(No. 6.)
Sir,

Foreign Office, May 25, 1898.

I AM directed by the Marquess of Salisbury to acknowledge the receipt of your despatch No. 1 of the 11th instant, in regard to the action of British missionaries in Tunis, and their disputes with the French authorities.

[1545]

I am to convey to you Lord Salisbury's concurrence in the views which you express on the subject.

I am, &c.
(Signed) T. H. SANDERSON.

No. 3.

North Africa Mission to the Marquess of Salisbury.—(Received January 12.)

My Lord,

21, Linton Road, Barking, January 11, 1899.

I beg to call your Lordship's attention to the accompanying Memorandum regarding charges brought against two of our missionaries, Miss M. Scott and Miss A. Cox, from which your Lordship will see something of the difficulty we experience in connection with our mission work in Tunisia.

The case comes on for rehearing in Algiers to-morrow, Thursday, the 12th January, but I am informed that witnesses are not examined by this Court, only the previous evidence. If the case goes against these ladies they must suffer imprisonment, unless they can escape under the "Loi Béranger," or, on the other hand, appeal to the Cour de Cassation in Paris, but it is a question of whether this would be of any use. I think it is quite probable that they may prefer to submit to the penalty.

We greatly deplore this matter occurring at this time, as the imprisonment of two English ladies under these circumstances is not an incident to improve relations with the French authorities. M. Rey, the able French advocate who is undertaking their case in Algiers, feels he will have a very difficult case on account of the strong anti-English feeling that exists there.

If your Lordship will fix a time I shall be thankful to call at the Foreign Office, that your Lordship or your representative may give me any advice you may see good in this matter.

We have endeavoured in the past, and we shall endeavour in the future, to keep within the laws of the countries in which we labour, but if, notwithstanding our efforts, cases are fabricated against us, we can only endure the penalty.

I have, &c.
(Signed) EDWARD H. GLENNY.
Honorary Secretary.

Inclosure in No. 3.

Memorandum regarding Charges against Miss Scott and Miss A. Cox

MISS MARY SCOTT and Miss Albina Cox, two ladies working as missionaries in connection with the North Africa Mission, visited the Island of Djerba, off the southern coast of Tunis, in the month of April 1898.

They were well aware that it was necessary to be careful to carry on their work without transgressing the laws of the country, which were enacted by the French authorities in the name of the Bey of Tunis.

One of these Laws has been specially enforced of late; it was promulgated in October 1884 in Tunisia with regard to the liberty of the press; it was rescinded in August 1887, and reissued on the 5th January, 1897, in the "Journal Officiel Tunisien." It is believed that the original object of this Law was to give power to the authorities to suppress the circulation of scurrilous literature; but since the early part of 1897 it has been used to prevent the circulation of the Holy Scriptures and religious books as well. Article 7 of this Law runs as follows:—

French.

"Nul ne pourra exercer, même temporairement, la profession de crieur, de vendeur, ou de distributeur sur la voie publique, ou dans les lieux ou réunions publiques, d'écrits, dessins, ou emblèmes

Translation.

"No one may follow, even temporarily, the profession of hawker, vendor, or distributor, on the public way or in public places or meetings, of writings, drawings, or emblems without the previous autho-

French.

Translation.

sans autorisation préalable des fonctionnaires délégués à cet effet par le Premier Ministre de Son Altesse le Bey.

"Cette autorisation pourra être retirée. Les contrevenants seront condamnés à une amende de 8 piastres à 24 piastres (5 fr. à 15 fr.); ils pourront être condamnés en outre à un emprisonnement d'un à six jours, sans préjudice des poursuites qui pourraient être dirigées pour crimes ou délits contre les auteurs ou éditeurs, soit contre les distributeurs, colporteurs, vendeurs, ou crieurs eux-mêmes. En cas de récidive l'emprisonnement sera nécessairement prononcé."

rization of the officials delegated for this purpose by the Prime Minister of His Highness the Bey.

"This authorization may be withdrawn. Offenders will be punished with a fine of from 8 piastres to 24 piastres (5 fr. to 15 fr.); they may be further condemned to imprisonment from one to six days without prejudice to the proceedings that might be taken for offences or sales against the authors or editors, or against the distributors, colporteurs, vendors, or hawkers themselves. In case of a repetition of the offence, sentence of imprisonment will necessarily be pronounced."

The authorities refuse to give an authorization for colportage work except in very exceptional circumstances, consequently, the missionaries have thought it well to avoid any attempt at public distribution or sales of Scripture in the streets or other prohibited places, and have hired shops in which they may sell the Scriptures or distribute their publications without committing any breach of the law.

Accordingly, on Thursday, the 21st April, two days after arriving, Miss M. Scott and Miss Albina Cox secured a small shop in the market place, in which in the afternoon they set out a table decorated with two bright-coloured handkerchiefs on which were Testaments, Gospels, and tracts. Almost immediately a messenger arrived from the Commissaire of Police summoning them before him.

One of the ladies, Miss Cox, appeared before the Commissaire. She was informed that the shop had been opened without authorization. She told him that, so far as she was aware from previous experience, it was not necessary to have an authorization.

A few days later the Commissaire requested that he should have samples of the books that were for sale. These were sent him.

The day before they were leaving, that is, Thursday, the 5th May, the Commissaire called upon them and informed them he had instructions to proceed with a *procès-verbal* or summons against them as they had been carrying on a religious propaganda, and had gone into houses and spoken to people on the road as well as in the shop with this object. He does not appear to have raised the question then of their having in any way infringed Article 7 of the Law referred to, but to have imagined that there was a Law forbidding propaganda or the making known of the Gospel to others. He took the addresses of the ladies, one of whom resided in Sousse, and the other in Tunis, and said he must take possession of the tracts which had been nailed to the wall just outside the door of the shop, as well as the intimation that they had books for sale. About half an hour after they were called to his office, where he read to them his statement of the case, which they signed. Nothing more was heard of the matter for some time, and it was supposed that it had all dropped through.

It was on the 17th August that Miss Scott learned through a fellow missionary that their cases had been tried in their absence, and without their receiving any notice of the same by the Tribunal at Sousse, and that they had been provisionally condemned to a fine of 16 fr. and six days' imprisonment.

The excuse that they had not received notice was that a notice was fixed to their shop the day after they left, and that, having left no address, it was sent to the Tribunal at Sousse. It seems difficult to understand how this statement could be made, since the ladies had given both their addresses to the Commissaire of Police, and their addresses appear in his statement.

On the Procureur at Sousse being interviewed, he was willing to defer judgment for two months to give them time to appear in person to seek a revision of the Judgment.

The Procureur mentioned that there is no Law against propaganda in Tunis, and that missionaries were free to distribute in their own shops or houses as much as they liked, and preach the Gospel everywhere. He did not consider that giving a book in one's own shop was distribution, and finished up by saying:—

French.

"Je ne suis pas partisan de toutes ces taquineries qu'on mène contre vous, mais quand on vous dresse procès-verbal pour délit contre une Loi sur la distribution et que l'on vous amène devant moi je suis obligé de vous l'appliquer."

The following is the evidence that was given at the first trial:—

French.

Le 5 Mai, 1898.

Nous, Pental, Joseph, Inspecteur faisant fonctions de Commissaire de Police à Djerba,

Rapportons que ce jour-là accompagné de notre gardien Hassin-el-Hamdani, nous nous sommes transportés Place Massieu, dans un petit magasin loué par les nommées A. Cox et Mary M. Scott, se livrant à domicile et sur les places publiques à la propagande évangélique ainsi qu'à la vente d'écrits religieux dans le magasin.

Nous leur avons individuellement donné connaissance des faits qui leur sont reprochés.

Mlle. Mary M. Scott nous a déclaré être née à Glasgow, ayant domicile ordinaire à Tunis, Rue Essala Messika, 5, Quartier El Haffouine.

En ce qui concerne le fait de propagande qui lui est reproché elle nous a répondu:—

"Je n'ai rendu ni distribué soit à domicile soit sur la voie publique aucun écrit religieux."

D. Vous avez cependant fait par paroles de la propagande à domicile et même sur la voie publique accostant les indigènes que vous rencontrez?—R. C'est vrai, mais la parole est libre; on ne peut pas empêcher de causer.

Lecture faite, persisté et signé.

Nous avons ensuite entendu la Demoiselle Cox Albina qui nous a déclaré être née à Hampshire domicile à Sousse, Maison Livolsi, Rue Trocadéro.

En ce qui concerne le fait de propagande qui lui est reproché elle nous a répondu qu'elle s'associait à la déclaration et réponse de sa compagne, déclaration relatée plus haut, et qu'elle n'avait rien à ajouter.

Nous avons alors saisi des écrits religieux qui se trouvaient affichés au dehors de leur magasin, leur faisant constater que ces écrits étant de ce fait sur la voie publique, constituaient une propagande publique, fait dont elles ont donné acte.

Translation.

"I am not a party to all these annoyances that are brought against you, but when you are served with a summons for transgressing a Law on distribution, and you are brought before me, I am obliged to pass judgment on you."

Translation.

May 5, 1898.

I, Joseph Pental, performing the duties of Commissary of Police at Djerba,

Report that to-day, accompanied by our guardian Hassin-el-Hamdani, we went to Place Massieu, to a small shop rented by A. Cox and Mary M. Scott, carrying on an evangelical propaganda within doors and upon the public ways, as well as selling religious writings in their shop.

We have made known to them individually the facts of which they are accused.

Miss Mary M. Scott informed us she was born at Glasgow, but at present she is living in Tunis at No. 5, Rue Essala Messika, in the Haffouine Quarter.

With regard to the act of propaganda with which she is charged, she replied to us:—

"I have neither sold nor distributed either in the houses or on the public way, any religious writings."

Q. You have, however, by words carried on a propaganda within the doors and even on the public way by speaking to the natives you met?—A. It is true, but there is liberty of speech and talking cannot be prevented.

Read, acknowledged, and signed.

We next heard Miss Albina Cox, who said she was born in Hampshire, but resided at Sousse, Maison Livolsi, Rue Trocadéro.

Regarding the act of propaganda of which she is accused she said she agreed with the declaration and answer of her companion given above, and that she had nothing to add.

We then seized some religious writings which were posted up outside their shop, proving that these writings being on the public way would constitute a public propaganda. This act they had done.

French.

Audition des témoins.

Le dit témoin a répondu et fait sa déclaration hors la présence de l'accusé ainsi qu'il suit:—

Je me nomme Hussein-ben-Ali Boujares. Il y a environ un mois deux dames qui vendaient des livres religieux dans un magasin donnant sur la place du marché, m'ont demandé de leur procurer deux ânes pour visiter l'intérieur de Djerba. Leur ayant trouvé les animaux elles me demandèrent de les accompagner chez un nommé Ali-el-Kiatib, habitant Mahbouline ce que je fis.

Arrivés chez le susnommé elle entretenait avec lui une conversation en Français à laquelle je ne compris rien. Le même soir nous retournions à Djerba. Deux ou trois jours après en rentrant chez moi un famille m'apprit que ces mêmes dames s'étaient rendues dans ma demeure et qu'elles avaient entretenu mes parents sur l'histoire de Dieu. Je n'ai jamais autorisé cette visite qui a été faite sans mon insu. J'en ai aussitôt rendu compte au Khalifat. Il n'est pas à ma connaissance que ces dames aient visité d'autres demeures.

5 Juillet.

Je me nomme Koujaouakis Payanotit. Les dames Scott et Cox sont venues un certain jour déposer dans mon magasin un panier renfermant des livres.

Quant à la propagande religieuse je n'en sais rien du tout. Je ne savais pas même quel était leur métier. Je n'ai pas vu des placards devant leur maison voisine de la mienne. En résumé je ne sais rien.

Je me nomme Hassin-ben-Hamdani.

Entre autres personnes les dames Cox et Scott ont interpellé le Secrétaire de S. . . C. . . et lui ont demandé s'il savait lire. Sur sa réponse affirmative elles lui ont proposé des livres publiés. Il les prit et les rendit deux jours après. La proposition a été faite devant la boutique d'un menuisier. Elles ont été encore chez Boujares et Taourit.

A moi-même, lorsque par ordre du Commissaire je les ai mandé, elles m'ont proposé des livres publiés, moyennant 50 centimes et durant leur trajet de leur maison (?) au Commissariat elles me dirent qu'elles étaient venues à Djerba pour apprendre le vrai Dieu aux indigènes qui à Djerba avaient (?) mauvais étaient possédés du démon et qu'elles venaient les mettre dans le bon chemin. Un autre

[1515]

Translation.

Hearing of witnesses.

The witness called, answered and made his declaration, not in the presence of the accused, as follows:—

My name is Hussein-ben-Ali Boujares. About a month ago two ladies who were selling religious books in a shop overlooking the market square, asked me to procure for them two donkeys to visit the interior of Djerba. Having found the animals they asked me to accompany them to one named Ali-el-Kiatib, living at Mahbouline, which I did.

Having arrived at the above named they held a conversation with him in French, of which I understood nothing. The same evening we returned to Djerba. Two or three days after on going home my family told me that these same ladies had been to my home and had talked to them about God. I never gave permission for this visit; it was made without my knowledge. I at once communicated with the Khalifat. I have no knowledge that these ladies visited other dwellings.

July 5.

My name is Koujaouakis Payanotit. The ladies Scott and Cox came one day into my shop and placed there a basket containing books.

As to religious propaganda I know nothing about it. I did not even know their trade. I have not seen any placards in front of their house, which is next to mine. To sum up, I know nothing.

My name is Hassin-ben-Hamdani.

Among other persons, the ladies Cox and Scott spoke to the Secretary of S. . . C. . . and asked him if he could read. On being answered in the affirmative, they offered him some published books. He took them and two days later returned them. The offer was made in front of a carpenter's shop. They have also been to the houses of Boujares and Taourit.

As for myself, when I sent for them by order of the Commissary of Police, they offered me some published books for 50 centimes, and on their way from their house to the Commissariat they told me that they had come to Djerba to teach the true God to the natives, who at Djerba were bad, were possessed by the devil, and they had come to lend them in the right way. Another day one of the ladies invited

C

French.

jour l'une d'elles m'invita à aller dans son magasin et elle me remit des livres à lire.

5 Juillet.

Je me nomme Hebil-ben-Ahmed, agent de police à Djerba. J'ai vu plusieurs fois les demoiselles Scott et Cox entrer dans divers magasins à Djerba, entre autres chez Sousson, l'épicier, Hamida Trabelsi, et puis chez Koujankis, chez qui elles déposèrent un panier plein de livres; elles se promènèrent ensuite dans le pays interpellant les indigènes, et pour ceux qui savaient lire leur proposant des livres publics. Je pourrais reconnaître un de ces indigènes, dont j'ignore le nom. C'est un étudiant de Mahbouline probablement.

5 Juillet.

Je me nomme Ali-ben-Abdelkader, professeur demeurant à Djerba. J'étais chez un menuisier lorsque les dames sont venues. Elles m'ont demandé si je savais lire et sur ma réponse affirmative elles m'ont offert un livre, m'invitant à le garder deux ou trois jours, et à leur en payer le prix ou le rendre s'il ne me plaisait pas. Il n'est pas à ma connaissance d'autres faits de propagande.

5 Juillet.

Je me nomme Hamida-ben-el-Hadj Moh. Trabelsi, épicier à Djerba. Les dames Scott et Cox sont venues plusieurs fois chez moi faire des achats d'épicerie et m'ont demandé si je savais lire. Elles m'ont proposé des livres que j'ai refusé. Je n'ai pas vu d'autres faits de propagande mais je savais qu'elles avaient un petit magasin en ville.

It will be noticed in the evidence of Joseph Pental, the Commissaire de Police, that he only speaks of their selling religious writings in their shop, not elsewhere, and that he himself gives no evidence as to their selling or distribution in public places. Both ladies deny having given or sold any papers outside their shop.

The witnesses gave their evidence in the absence of the accused, and do not appear to have been cross-examined.

Hussein, the first witness called, speaks of their shop; he gives no evidence of their selling or distributing outside.

Koujankis Payanofit, the second witness called, merely mentions that the ladies placed a basket containing books in his shop, but knows nothing of sales or distribution outside, although he lives next door.

The third witness, Hassan Hamdani, appears to be a police agent. He says that they spoke to a certain Secretary and visited certain houses. As to sales or distributions, he affirms that they offered books to the Secretary in front of a carpenter's shop, and that they also offered him a book to read in the shop.

The fourth witness, Hebil-ben-Ahmed, is also a police officer. He mentions that the basket of books left in the shop as the previous witness, and also says they

Translation.

me to go into their shop, and she gave me some books to read.

5th July, 1898.

I am Hebil-ben-Ahmed, police officer at Djerba. I have seen several times the ladies Scott and Cox go into different shops at Djerba, amongst others, that of Sousson, the grocer, Hamida Trabelsi, and Koujankis, with whom they left a basket full of books, then they went about the country speaking to the natives, and to those who could read they offered published books. I might recognize one of these natives, whose name I do not know. He is a student probably of Mahbouline.

5th July, 1898.

I am named Ali-Ben-Abdelkader, professor, living at Djerba. I was at a carpenter's when the ladies came. They asked if I could read, and on my reply in the affirmative, they offered me a book asking me to keep it two or three days, and pay them the price or give it back if I did not like it. I know of no other acts of propaganda.

5th July.

I am Hamida-ben-el-Hadj Moh. Trabelsi, grocer at Djerba. The ladies Scott and Cox have come to me several times to buy groceries, and asked me if I could read. They offered me some books, which I refused. I have not seen any other deeds of propaganda, but I know they had a small shop in the town.

offered books in the country, but could not identify the persons to whom the books were given, but that he might identify one.

The fifth witness, Ali-ben-Abdelkader, says he was offered a book. Does this refer to the same person who, the third witness says, was offered a book in front of the shop? If so, their witnesses do not agree.

The sixth witness, Hamida-ben-el-Hadj Moh. Trabelsi, says he was offered books in his shop when groceries were being purchased.

The only testimony, therefore, of any books or papers being sold or distributed outside in any public place seems to rest upon the two officers of police, and is not of a very clear character. On the other hand, the ladies emphatically deny any sale or distribution in any public place.

M. Cattani, the Solicitor who was engaged by the ladies to represent them, saw the French Resident-General of Tunis and his Secretary before coming over, and the Resident declared that he was determined to stop the work, in which M. Cattani replied: "Alors, il faut que nous fassions la guerre," to which the Resident answered, "Hé!"

It is also reported that a Circular had been sent to the different legal centres, with instructions to be aware with these cases.

This seems to accord with the statement of the Commissaire de Police, that he was instructed to proceed against them, and would seem to indicate that the authorities were endeavouring to find an occasion for bringing a charge against the missionaries, which would easily account for the fact of the condemnation, and the added fact that the sentence passed was the severest the law permitted, and quite out of keeping with the gallant conduct which one might expect from French officials towards gentle ladies.

After a certain delay, caused by the railway being washed away, the case came on a second time for hearing on the 30th November.

After the usual formalities and the reading of Article 7, and a reading of the former condemnation, M. Cattani rose in their defence. The Procureur replied, and the Judge, after conferring a few moments with the other Judges, pronounced the ladies guilty on the testimony of four Arab witnesses, who had not been recalled, and who were previously heard in the absence of the accused, and whose testimony with regard to the selling, giving, or lending of tracts or books in public places the ladies declared to be false. The Judges, however, preferred to accept the testimony of these Arabs.

On the following day, Miss Cox and Miss Scott lodged an appeal against the Judgment, to be heard in Algiers, where probably the case will be reheard shortly.

The following points seem to arise:—

1. Does Article 7 of the Law in question really apply to the distribution of Scriptures and tracts?
2. Was the trial regularly conducted—the ladies not being made aware of the first trial, being thus unable to have the witnesses cross-examined?
3. Was this second trial also regular in that though the accused were present, the witnesses were not to be cross-examined?
4. Is it desirable on our own account to summon these witnesses to appear in Algiers, and to seek for other witnesses who might bring rebutting evidence?

No. 4.

Miss Cox to Mr. Glenny.—(Communicated January 10, 1899.)

Dear Mr. Glenny,

2, Rue du Croissant, Algiers, January 11, 1899.

TO catch the rail to-day (as I thought the only one) I sent you a desperately hurried line, but I find now that there is another boat going at 5 P.M., so feel sure you will like a clearer account.

Before our names were called by the Presiding Judge, M. Rey came round and informed us that last night only there had come to his mind, from among the many small details of our "dossier," that the length of time which had been allowed to elapse between the date of the *procès-verbal* and the November trial was more than the legal five months. This, he said, was a great point in our favour. He also said that we need answer no questions that were put to us, but refer everything to him,

saying we were in full accord with him. Of this we were not sorry, and leaning on the 27th Psalm we went forward.

M. Rey made a most business-like, clear, eloquent defence (so different to M. Cattin), saying:—

1. That our mission was unattached and undenominational, without the least political aims; that he had read the "archives" of it, and well informed himself.

2. That we, having been before condemned through ignorance of the law, had this time taken care to be in strict accord with it, and therefore hired a shop.

3. That the fact of our having received no formal advice of the first trial, although the authorities had clearly our respective addresses, was not according to "jurisprudence," as he proceeded to show by one of the three ponderous volumes he had brought with him to court.

4. As above *re* the date. The "Ministre Publique" then proceeded to upset the defence, saying that since we had not, at the time, complained of the expiration of the legal date, it could not plead for us. M. Rey spoke again, taking up other points still: 1. The class of witnesses against us. 2. Their own contradictions. 3. The fact that the only witness whose testimony could be accepted was vague. 4. That we definitely and continuously declared that we were not guilty of the charge against us, &c. On this the Minister, a most forbidding-looking Corsican, again endeavoured to prove that, notwithstanding all, we were guilty. The Judges, five grave, somewhat elderly men, did not seem to look unfavourably on the affair; but, strangely enough, instead of conferring *entre eux* together, as seems to be their custom, sat still, while the President said quickly, "Renvoyé en huitième." We retired instantly, and met our lawyer outside, who said that the Judges find the matter very embarrassing, and do not like the possibility of the "Cour de Cassation," which M. Rey had referred to in his speeches, and which, he said, may be of great benefit to our cause.

We have two bases to go on for it, and, he says, that if they do confirm the charge of guilty here, he should certainly advise us to go on there. We had told him, before your last telegram came, that we refused the Law "Béranger," as we did not think it would be right to shelter ourselves from punishment under a law made for escape of the guilty, and that we meant to go to prison, not thinking that Paris would bring any good, perhaps, to the cause. Of course he could not tell this last point then, but evidently thought our view of the "Loi Béranger" was honourable.

He did not mention this, however, at the trial this morning, as Judgment was not passed. He may receive sentence for us from the Judges by Thursday or Saturday next, when we are to go to him, but we need not appear at the Court again. Of course this necessitates our remaining at least another week here, and, in accordance with your last letter, may we ask you kindly to be quite assured that, unless the lawyer can show that Paris will be a real gain to the cause we all have in hand, we shall, should they recondemn us here, go to prison; and gladly. Most of our friends think, however, that the thing will be settled in our favour here.

The Lord has been very really with us in all this, and we know that He has been guiding M. Rey, as we prayed specially for it. He has a most unpopular case. Our friends are all so good and kind; besides M. Cuendet, who is a real brother in it all. Miss Lowitz, Miss Haworth, and the English clergyman all came with us to-day.

Trusting that we are acting in accordance with the views of the Council, believe me, &c.

(Signed) ALBINA L. COX.

Dear Mr. Glenny,

Algiers, January 14, 1890.

THE matter was again delayed till to-day. After being three hours in court the affair is considered too difficult and important to decide at once, and the Judges determine to take eight days to decide. Our lawyer was splendid, but the Minister intensely against us. M. Rey says, to appeal to Paris will probably be of the greatest use to us, i.e., to the work, and that we have two bases to go on. He knows that we do not at all mind the prison part, and we positively refuse the "Loi Béranger." I hasten to catch this mail, but will write again. The Lord will bring victory out of all this to His dear Word. Hallelujah!

Yours, &c.

(Signed) ALBINA L. COX.

No. 3.

North Africa Mission to Foreign Office.—(Received January 24.)

19, 21, and 29, Linton Road, Barking, London,
January 21, 1890.

Dear Sir,

THIS afternoon I received a telegram from Miss A. Cox, one of the lady missionaries concerned in the French prosecutions in Algiers, as follows:—

"Confirmed. Ber. applied. Appealing. All's well.—Cox."

This I understand to mean that the Court in Algiers has confirmed the sentence passed at Sousa, but has offered them the benefits of the Béranger Law, which exempts from prison for a first offence on the condition that, if condemned a second time, the two terms will have to be served.

Against this sentence they are appealing, knowing that they are not guilty, and thinking that there may be some prospect of a more favourable verdict from a higher Court in Paris.

Under these circumstances you will know whether it may be or may not be wise to make some friendly representations to the French authorities in Paris.

I remain, &c.

(Signed) EDWARD H. GLENNY.

No. 6.

North Africa Mission to Foreign Office.—(Received January 31.)

19, 21, and 29, Linton Road, Barking, London,
January 28, 1890.

Dear Sir,

I AM inclosing you a translation of a further communication I have received from M. Cuendet, one of our Swiss missionaries in Algiers, with regard to the trial of Miss A. Cox and Miss M. Scott. I am glad to see there seems to be some prospect that Judgment may be reversed in their favour.

I remain, &c.

(Signed) EDWARD H. GLENNY.

Inclosure in No. 6.

M. Cuendet to Mr. Glenny.

(Translation.)

Dear Mr. Glenny,

35, Rue Dupuch, Algiers, January 24, 1890.

IF I write to you in French, it is because I have greater facility in expressing myself therein than in English. I believe you will be able to understand me, or Mr. Marshall will translate my letter to you.

Doubtless, I am not the first to inform you of the Judgment given by the Court of Appeal at Algiers concerning the matter of Miss A. Cox and Miss Scott, but I want, however, to tell you a few words about it.

On Saturday, the 14th instant, M. Rey brilliantly defended these ladies; he was very clear, precise, and really warm in his pleading, and despite the nasty remarks made by the Advocate-General (Procureur-Général of the Republic) the Court was embarrassed, and could not come to an agreement on that day, and was obliged to put off its decision for a week.

It is not of course possible to establish the innocence of these ladies without confronting them with their witnesses (i.e., against them), as the Court of Appeal does not hear witnesses. Their lawyer at Tunis made a great mistake in not calling them (the witnesses) when the ladies appeared at Sousa.

M. Rey says that that lawyer did not know his business, and that he worked rather against them, and in all probability knowingly and wilfully, but the evidence of these six witnesses who testified at Sousa in the absence of these ladies did not greatly move the Court at Algiers, for there were many contradictions in it.

Finally, M. Rey set to work to prove that the Judgment of the Sousa Court had no *raison d'être*, and this is the reason: the law says that the summons ought to be sent

to the accused or to his abode; now, the summons of the month of July was not sent either to the house of these ladies or to themselves; consequently, that constitutes an irregularity, and it is just as if the Court had done nothing at all to prosecute them.

In Tunisia if from the moment when the transgression is committed nothing regular is done for five months to prosecute the accused, after that time one can no longer prosecute. In Algiers it is three months.

In the month of October, when the ladies made their objection, the five months prescribed by the law being run out, there was no longer any condemnation possible if the lawyer had known his business. The Court at Algiers being very embarrassed has applied the "Loi Béanger," despite M. Rey saying that these ladies did not wish to benefit by this law seeing they were innocent. The Court took off the imprisonment but left the fine.

As a summons in the month of July was sent to the shop which they had rented at Djerba, the Court thought that that was sufficient, but afterwards M. Rey found out an article of law which appeared not long ago, and he says that if the Court had known it, or he himself at the moment when these ladies appeared, the Judgment of Sousse would certainly have been nullified.

This law says that if the accused has a fixed abode, and if he is away on a journey, the summons must be sent to the accused himself or to his (fixed) abode, but not to his (temporary) place of residence. Now, these ladies having a fixed abode, the summons ought to have been sent either to them or to their (fixed) abode, but not to Djerba, where they no longer were. M. Rey is now certain that they will gain the day at the Court of Cassation in Paris, and he has strongly advised them to go there. He says there are 99 chances to 100 of succeeding. They need not go there themselves. M. Rey is going to find them a good lawyer in Paris, and he will instruct him about this matter.

Yesterday they signed their appeal for reversal of Judgment, and I am to send to-day 150 fr. for the expenses of this Court; if they are not condemned this 150 fr. will be returned to us. Out of the 250 which you sent me for this purpose I have only 110 fr. left, and shall have to give M. Rey to send to the lawyer in Paris at least 300 fr., he thinks, for his fees. Then I think there will still be something to give M. Rey, for he has received only 200 fr. for the whole business.

I have given Miss Cox 120 fr., 10 c. for travelling expenses and Miss Scott 37 fr. 35 c. You will, therefore, be kind enough to send me some more money for that.

I want my letter to leave by this mail, so I must stop.

I remain, &c.
(Signed) E. CUENDET.

No. 7.

Foreign Office to Consul-General Sir H. Johnston.

(No. 2)
Sir,

Foreign Office, February 11, 1893.

WITH reference to my despatch from this Office No. 6 of the 25th of May, 1892, and to previous correspondence on the subject of British missionaries in Tunis, I am directed by the Marquess of Salisbury to transmit to you copies of correspondence with the North African Mission Society respecting the prosecution of Miss Cox and Miss Scott and their appeal from the decision of the Supreme Court at Algiers,* by which the Judgment of the Court at Sousse was confirmed.

In Mr. Glenny's letter of the 11th ultimo you will find a Memorandum giving full particulars of the charges brought against these ladies, and of the laws which they are accused of contravening, and of the evidence by which the prosecution was supported.

I am to instruct you to report whether you are of opinion that the circumstances of the case afford any ground for a friendly and unofficial representation to the French Governor as to the proceedings taken by their authorities against these ladies in the event of the decision of the Supreme Court at Algiers being upheld by the Court of Cassation in Paris.

* Nos. 3, 4, 5, and 6.

You are aware of the great sympathy with which missionary enterprise is viewed in this country, and as questions may at any time be asked in the House of Commons on the case, I should wish to be furnished with a report from you upon it.

I am, &c.
(Signed) T. H. SANDERSON.

No. 8.

Consul-General Sir H. Johnston to the Marquess of Salisbury.—(Received March 21.)

(No. 10.)

My Lord,

Tunis, March 16, 1893.

PRIOR to my taking up my post as Consul-General in the Regency of Tunis, among the instructions which I received from the Foreign Office was one to refrain from any interference in the affairs of the British missionaries in Tunis. I was told that it had been arranged during my predecessor's tenure of the post that to avoid undue friction with the local authorities all matters concerning British missionaries in Tunis were to be dealt with directly between London and Paris. Consequently, I have assiduously avoided any official intervention in their difficulties with the Tunisian Government, though whenever possible I have used my personal influence with the French Minister to smooth away difficulties. During the year and a-half in which I have occupied this post I have carefully studied the procedure of the members of the North African Mission, (a) in Tunis and the vicinity; (b) at Susa and Kairwan; (c) at Gafsa; (d) at Gabes. I have made inquiries about them from French and Tunisian officials, and also from the Arabs among whom their work lies. Although I could find little evidence of any success as regards converting the Mahomedans to Christianity, I can honestly say I have never detected the least trace among these Evangelists of political propaganda, of disparagement of the French nation or rule, or of any secondary or interested motives apart from the sincere desire to spread the knowledge of the Christian faith, and also to render gratuitous medical service to the natives. With one exception, which I will afterwards discuss, there has been no evidence that the work of these missionaries was disliked by the Arabs. On the contrary, the women missionaries were welcomed into Arab harems, where they have undoubtedly done much good in what is styled in India "Zenana work."

I do not think that the Mahomedans of this country, who are less fanatical than those of Morocco and Tripoli, are at all averse to discussing religious questions with these missionaries, or to reading copies of the Scriptures which they sell. I strongly doubt the probability of any considerable conversion of these Arabs to Christianity; but the discussion of its principles seems to interest them, and not to excite any fanaticism on their part or prejudice against the missionaries.

All these missionaries are thoroughly conversant with Arabic, and it is that, perhaps, which annoys the French, who, one and all, are curiously lacking in conversance with this language. As French officials and colonists have almost invariably to resort to interpreters (sometimes, indeed, employing these missionaries), it annoys them to think that there are subjects of another Power—a Power which at this time they regard with absolutely morbid suspicion—who can communicate freely and, as they think, secretly with the natives of a country which, in all general respects, is well and wisely governed by France at the present time.

The exception to which I alluded above was the murder of Dr. Leach, his wife and child, at Sfax. It was said that this murder was due to Dr. Leach having converted a boy and baptized him at Tunis. Assassins were said to have been employed by a Mahomedan dignitary of importance. In spite of many promises, the French have never taken any active steps to arrest and try these murderers. The case was a most revolting one. It was probably fully reported on by my predecessor, and it was alluded to in my Report of last year. But I should add that the prospect of justice being done in this matter, which, on the strength of assurances from the French Minister, I held out in my Report, has not been confirmed.

The local press of Tunis and Algeria, excited by the lower-class officials and by French colonists, has circulated the most absurd fictions and false statements about these missionaries. It was reported the other day in a local Tunisian paper that these

* Namely, instruction in hygiene and elementary education.

missionaries went about among the lower-class Maltese and Sicilians substituting pictures of Her Majesty the Queen for those of the Virgin Mary; while accusations of instigations to revolt made by the missionaries to native Tunisians are a common-place falsehood repeated almost weekly, and devoid of the slightest particle of truth. All French officials in Tunis do not share these views. They have made the acquaintance and have appreciated the honesty of purpose of these missionaries. They may think their efforts misdirected and a waste of time and money, but they wholly acquit them of sinister motives.

With reference to the particular question of the prosecution of Miss Cox and Miss Scott, the following is the information which I have received from British Consular officials at Djerba and Suse:

1. Miss Cox and Miss Scott hired a shop at Hunt Suk, in the Island of Djerba, where they displayed for sale copies of the Scriptures and other religious books translated into Arabic. They did not at any time distribute these works by colportage, or, so far as I can ascertain, break any law or Regulation. I can find no law against religious propaganda, though any indiscreet attempts to proselytize would be controlled under general provisions for the maintenance of public order. But in engaging in conversation with Arabs on religious questions it cannot be argued that these ladies infringed the actual law. Moreover, in the Island of Djerba there would be less offence in carrying on missionary work than elsewhere in Tunisia, as the inhabitants of that island belong to heterodox Mahomedan sects, and are practically Freethinkers.

2. When it was decided to take proceedings against these ladies, they were not duly warned. Apart from their own assertion that they left their addresses with the Commissaire de Police, it has been the custom of the French authorities of Tunis to serve all judicial notices on British subjects, of whom the address is not known, at the British Consulate-General in Tunis, or at one of the Vice-Consulates; for as all British subjects are all registered now, their addresses are known to us. No such notices were served on these ladies. In fact, they were given no opportunity to answer in person before the Tribunal at Suse.

Members of this North African Mission have told me that they met with less opposition and fewer difficulties in Morocco and Tripoli—countries with a Mahomedan Government—than in Algeria and Tunis, where the French, on the plea of avoiding outbreaks of Mahomedan fanaticism, have jealously hampered their proceedings. It is clear to me that, with the present trend of political feeling, the French authorities are not likely to diminish their opposition to the work of British mission, as in French North Africa. It remains, therefore, for these missionaries to consider whether, under the circumstances, it would not be wiser for them to transfer their work from French North Africa to Morocco, Tripoli, and Egypt. I think it well also to remark that the two ladies concerned in the present case have provoked more opposition from the French than the rest of the Mission by adopting an attitude which errs in good taste, tact, and worldly wisdom in maintaining at incongruous times and seasons an aggressive display of religious enthusiasm. It is a delicate subject to treat of, because it must be remembered they are very much in earnest; but the majority of Frenchmen are Roman Catholics, and have an unpleasant feeling of being classed in these missionaries' minds with Mahomedans and unbelievers. These ladies are too prone to introduce controversial religious questions into ordinary conversation, and in this way, though their zeal may inspire respect in thoughtful persons, their extravagance of diction causes amusement in some cases and dislike in others. They have numerous colleagues, both men and women, whose quiet reserve of manner they would do well to imitate.

On the whole, I am decidedly of opinion that an informal, friendly intervention on the part of Her Majesty's Ambassador at Paris might secure the quashing of—what I believe to be—the illegal conviction of these two ladies. At the same time, their friend and adviser, Mr. Glenny, might be asked to suggest to them that, in continuing their work in Tunis, they should avoid exaggerated manifestations of religious enthusiasm in their ordinary everyday dealings with the French people with whom they are thrown into contact.

I have, &c.
(Signed) H. H. JOHNSTON,
Her Britannic Majesty's Consul-General.

No. 9.

The Marquess of Salisbury to Sir E. Monson.

(No. 122.)

Foreign Office, March 30, 1890.

Sir,

WITH reference to the printed correspondence sent to you from time to time respecting the action of the French authorities in regard to British missionaries in Tunis, I transmit herewith copy of a despatch to Her Majesty's Consul-General and of his reply on the recent prosecution of Miss Cox and Miss Scott, of the North African Mission Society.

In Mr. Glenny's letter of the 11th January last your Excellency will find a Memorandum giving full details of the charges brought against these ladies, of the laws which they are accused of breaking, and of the evidence by which the prosecution was supported.

They have since been condemned by the Court at Suse, whose judgment has been upheld by the Superior Court at Algiers, and they have consequently appealed to the Court of Cassation at Paris.

Sir H. Johnston is of opinion that an informal and friendly intervention on the part of Her Majesty's Embassy might bring about the quashing of what he believes to be an illegal conviction.

I request that your Excellency will communicate with the French Government in the manner which may appear to you to be most suitable, with a view to obtaining either an abandonment of the prosecution or an arrest of judgment in the event of the decision of the lower Court being upheld by the Court of Cassation.

I am, &c.
(Signed) SALISBURY.

No. 10.

Sir E. Monson to the Marquess of Salisbury.—(Received April 10.)

(No. 182.)

My Lord,

Paris, April 2, 1890.

I HAVE the honour to acknowledge receipt of your Lordship's despatch No. 122 of the 30th ultimo, transmitting copies of a despatch to Her Majesty's Consul-General at Tunis relative to the prosecution by the French authorities of Miss Cox and Miss Scott, of the North African Mission, and of the Report furnished by Sir H. Johnston on the subject.

I am, of course, only too anxious to obtain either an abandonment of the prosecution against these two ladies, or an arrest of judgment in the event of the decision pronounced by the Lower Court being upheld by the Court of Cassation, and I will lose no time in approaching the French Government in the matter in a friendly and informal manner, as suggested by Sir H. Johnston, but I must confess that I am far from sanguine as to the result of my representations.

As I have already reported to your Lordship in my despatches Nos. 203 and 256 of the 21st March and 5th April, 1887, the line taken by the French Government in all questions connected with missionary work is the result of a deliberate policy. The French authorities both in Africa and Tunis receive the strictest instructions to permit of no religious propaganda whatever, and the principle is enforced with equal severity against French Catholic priests and English Protestant missionaries. Moreover, there appears to be nothing in the case of the two ladies in question, who have only themselves to thank for the position they are now placed in, to induce the French Government to depart from a principle which they have up to now judged salutary.

It appears, however, from Sir H. Johnston's Report, that there were certain irregularities in the proceedings against Miss Cox and Miss Scott, and that they were never duly warned of the action that was going to be taken against them; moreover,

since my last representations a change of Ministry has taken place, and I can only hope that I shall find M. Delcassé less uncompromising in the matter than was his predecessor, M. Hanotaux.

I have, &c.
(For the Ambassador),
(Signed) REGINALD LISTER.

No. 11.

Comand-Général Sir H. Johnston to the Marquess of Salisbury.—(Received April 10.)

(No. 13.)

My Lord,

Tunis, April 4, 1899.

THE enclosed extract from the "Dépêche Tunisienne" may be of interest to your Lordship as bearing on the present position of British Protestant missionaries in Tunis and Algeria, your Lordship having asked for information on the subject in a previous despatch. The "Dépêche Tunisienne" is the leading newspaper of Tunis, and passes for being frequently inspired by the French Residency.

From his recent semi-public utterances on the subject which have been reported in the "Dépêche Tunisienne," M. Millet, the French Resident, would appear to have gradually taken up an attitude somewhat hostile to British missionaries, though he has never been put in possession of a single piece of trustworthy evidence relating to the so-called political intrigues with which these missionaries are charged, and of which I believe them to be wholly and absolutely innocent.

Whatever the higher officials of France in North Africa may think of the unfairness of this crusade against perfectly harmless people, they are obliged to bow to public opinion, and I have little doubt that a determined effort will be made before long to make it impossible for British missionaries to carry on any religious work in French North Africa. I can only repeat for the last time my often-expressed opinion that it is a great pity these missionaries should be lavishing their time, talents, and money in such a hopeless cause. By all means let them work in the Mahomedan world, but let them avoid French possessions, and devote their energies to independent Mahomedan States or to Mahomedans dwelling in countries under British control. But I should like to add that the work of this Mission is becoming popular amongst the North African Arabs and Berbers, because of the useful elementary schools opened by the missionaries and the medical advice given.

I have, &c.
(Signed) H. H. JOHNSTON.

Inclosure in No. 11.

Extract from the "Dépêche Tunisienne" of April 2, 1899.

NOUS avons toujours évité, à la "Dépêche Tunisienne," de mêler les questions de races ou les questions de religion aux questions politiques. On est de la race qu'on peut et de la religion qu'on veut; mais à quelque race ou à quelque religion qu'on appartienne, il y a une chose qu'en pays Français nous ne reconnaissons à personne le droit de faire: c'est de la politique et de la propagande anti-Françaises.

Or, depuis plusieurs mois, il n'est pas un journal d'Algérie, ni pas un journal de Tunisie qui ne signale les manœuvres absolument hostiles à notre influence des Méthodistes Anglais.

En Algérie, ce sont "l'Écho d'Oran," la "Dépêche Algérienne," le "Télégramme Algérienne," "l'Express Algérien," et tous les journaux de Constantine qui dénoncent, avec indignation, comme un péril imminent, la propagande Anglaise faite, au détriment de notre influence nationale, dans les trois Départements de l'Algérie.

En Tunisie, la presse Française a poussé le même cri d'alarme.

"L'Avenir de Soussa," le "Progrès du Centre," et la "Dépêche Sfaxienne" ont, à maintes reprises, protesté, dans les termes les plus énergiques, contre une propa-

gande qu'ils considèrent, à juste titre, comme une des manœuvres les plus dangereuses et les plus redoutables pour notre Protectorat.

Les faits sont là, d'ailleurs, qui parlent plus éloquentement que tous les journaux. Il y a quelques semaines, à l'occasion de l'arrivée, à Alger, d'un de ces personnages pour lesquels on mobilise les troupes et les forces de police, un indigène, à qui des Zouaves ordonnaient de faire demi-tour, répondait, en faisant les soldats observateurs de leur consigne:—

"Si les Anglais débarquaient, vous ne feriez pas autant les malins. Vous vous dépêcheriez de sacher le camp."

Cet indigène fut conduit au poste.

Il n'en est pas moins évident que ce n'est pas spontanément, en vertu d'une interprétation abusive des sourates du Coran, ni par suite d'inhalation immodérée de fumée de kif ou de chira, que cet autochtone menaçait nos soldats des légions Britanniques.

Jusqu'à ce jour, les Musulmans fanatiques, quand ils ont cru devoir nous témoigner leur aversion, n'ont jamais eu recours à l'appui d'autres rousis pour les débarrasser de ceux qui les gênaient. S'ils changeaient aujourd'hui de coutumes et de langage, c'est manifestement que des conseillers habiles sont intervenus.

Des paroles analogues à celles de l'indigène d'Alger ont été dites, et redites, un peu partout en Tunisie, à nos compatriotes.

Pourtant l'Anglais a été présenté comme le libérateur attendu qui doit nous jeter à la mer et purger le pays de notre présence.

Sans doute, les Musulmans intelligents n'écourent point ces billevesées et, sachant à quoi s'en tenir sur le libéralisme et l'humanité des tyrans de l'Égypte, ils répètent volontiers le mot d'un des plus illustres indigènes Tunisiens à qui l'on demandait sa villa pour loger des troupes: "Contre les Turcs, je vous la prêterais à contre-cœur, mais contre les Anglais, non seulement prenez la villa, mais, s'il le faut, mon palais et celui de mes enfants."

Ces Musulmans n'en sont pas moins convaincus eux-mêmes de l'existence de la campagne anti-Française, qui est menée surtout parmi les populations rurales. L'un d'eux, Conseiller Municipal d'Alger, M. Ben Brinath, la dénonçait récemment en plein Conseil Algérois et s'élevait hautement contre la propagande Anglaise, savamment organisée, disait-il—et il savait, évidemment, ce qu'il disait—parmi ses coreligionnaires.

Eh bien! il est temps de faire un sérieux effort et de se débarrasser de ces gens, qui, sous un prétexte philanthropique ou religieux, viennent exciter contre nous des populations inflammables et les pousser à la révolte.

Il est temps que, d'un bout à l'autre de l'Afrique du Nord, de Nemours à Gabès, les autorités Françaises et locales s'entendent pour remplacer l'hospitalité Écossaise dont on abuse, par des banquettes Irlandaises, de façon à arrêter net le prosélytisme anti-Français de ces missionnaires Anglicans de tout poil et de toute robe qui n'ont, en définitive, rien à faire sur un sol où flotte en maître le drapeau de la France.

Anglais, qu'ils aillent prêcher dans les Colonies Anglaises, et qu'ils laissent à nos compatriotes, les Protestants Français, le soin de porter la Bible dans les Colonies ou les Protectorats Français.

Comment? nous aurions remplacé ici, depuis notre occupation de la Régence, le clergé Catholique Italien par un clergé Français, alors que, cependant, le chef de ce clergé, qui le tenait dans sa main était un Evêque de France; et nous laisserions tranquillement des prédicants étrangers apporter dans ce pays, avec leur Anglicanisme de contrebande, des excitations à la révolte et des provocations à la haine contre nous?

Ce serait trop fort et trop ridicule, en vérité!

Encore une fois, la présence et les agissements de ces étrangers sur nos territoires constituent un danger dont il serait criminel de se dissimuler plus longtemps l'imminence et l'importance. Il faut y mettre un terme, et bon gré, mal gré, purger l'Afrique du Nord de ces missionnaires politiques qui, sous prétexte de prêcher la doctrine du Christ, s'efforcent surtout d'enseigner l'amour de l'Angleterre et la haine du nom Français.

Consul-General Sir H. Johnston to the Marquess of Salisbury.—(Received April 22.)

(No. 14.)

My Lord,

Tunis, April 6, 1890.

I REGRET that my annual Report on British trade in Tunis should not yet be completed and in the hands of the Foreign Office. The chief reason for this delay is the reluctance on the part of the Franco-Tunisian officials to give any information whatever on those subjects where they alone can supply it. The consequence is that I am obliged to obtain my information by indirect means, a process which entails delay.

The fact is that ever since the difference of opinion that arose between France and England on matters connected with the Sudan the officials in this French Protectorate seem to have resolved to cease amicable relations in matters of business with British officials or British subjects. On a phase of this new attitude is the leaving unanswered almost all despatches that I write to the Residency on official questions.

Thus, some time ago, Mr. Austin Lee, of the British Embassy at Paris, wrote to me to obtain information regarding the College of Agriculture established in this Regency. My request for information on this subject has remained unanswered; therefore I have been unable up to the present to furnish Mr. Lee with the information he requires. Similar questions regarding the salt monopoly have been put to me by Mr. Law, the Commercial Attaché at Constantinople, and have met with a similar fate. I have received no reply to my inquiries about the fishing monopoly at Porto Farina, which has told us hardly on the Maltese settlers at that place (and respecting which I recently addressed a despatch to your Lordship); and no answer has been sent to my request for facilities to be afforded to the party of Scotch archaeologists respecting whom your Lordship wrote to me a fortnight ago.*

I merely draw your Lordship's attention to this attitude in self-defence, and not from any desire whatever to complain. I only wish that the Foreign Office may understand that the leaving of these and other questions unanswered is not due to any oversight or carelessness on my part.

In my forthcoming Report I propose to deal at some length with the position of the Maltese settlers in Tunis. I shall endeavour in that Report to avoid as far as possible statements which might, if published, give umbrage to the French authorities; therefore I have thought it better to precede the Report by this despatch, in which I can speak more freely regarding the present attitude of the French in the Regency of Tunis towards what they call "foreigners."

Before the recent outbreak of ill feeling, which the firm attitude taken up by the British Government in regard to the Egyptian Sudan evoked from the French press and Government officials, the French authorities in this Protectorate viewed with more or less friendly unconcern the presence of the large Maltese Colony in Tunisia; and I was repeatedly assured that the good behaviour of the Maltese, their freedom from criminality, and their abstention from political intermeddling were appreciated by the French Government, who hoped to see the continued prosperity of the Maltese in this French Protectorate. This attitude was even coupled with an attempt on the part of the inspired press to assure the Maltese of the solidarity of their interests with those of France. It was to France that "young Malta" was to look for a future, and so on.

In pursuance of this policy M. Millet, the present Resident-General proposed to my predecessor, Mr. Lazard, that the Maltese Colony in Tunis should participate in the advantages of the new French hospital to be built on the outskirts of Tunis for the treatment of indigent French subjects. I have related to your Lordship in previous despatches how, after the Fashoda incident, this invitation was abruptly cancelled, although, following on M. Millet's invitation, all arrangements had been made to fall in with the plan.

About this time the French Railway Company of Bone-Guelma had completed its purchase of the little railway which connects Tunis with Marsa, Carthage, and Goletta, that railway which was the bone of contention between the Italians and French in 1850-51. The Italian Company, on taking this line over from the English

* I leave unmentioned several other subjects treated with the same silence.

Company who constructed it had retained in its service the Maltese employés of the English Company. These are now being dismissed by the French railway authorities on various pretexts, and the same thing is being done on the rest of the lines owned by the French. The pretext being ordinarily the refusal on the part of the Maltese to apply for French naturalization. Elsewhere in the country it is the same. Maltese employés in the Post Office, or in the telegraph service, or in the Municipality must become French naturalized subjects or retire—in the latter case often with no more reward for long and faithful services than three months' pay. In two such cases last year, I wrote to the French Minister invoking his intervention to obtain for these men, who were discharged merely because they were not French subjects, some compensation. He assented to see the justice of my appeal, and promised in the one case a "bureau de tabac" (which has never been given) and in the other a money indemnity of 3,000 fr. This money indemnity, however, was subsequently reduced to 550 fr., the only reason given being motives of economy on the part of the Municipality. Other complaints, with which I need not here trouble your Lordship, reach me from Maltese regarding unfair or unjust treatment received from the Tribunals, or of their mistreatment at the hands of French soldiers. In such cases I have submitted the complaint to the French Resident, and in nearly every case have received no reply. I am not desirous at present of making any complaint against the French authorities or of doing anything which might make my own personal relations with the French Minister disagreeable. I hope that the appeasement of feeling which should follow on the recently-concluded Convention will smooth away some of these difficulties; but the main fact to which I wish to draw your Lordship's attention is, that in some way or other the Maltese in Tunis are being made to feel that they are not wanted there, and that the sooner they clear out the better—unless, of course, they will consent to become naturalized as French subjects. Out of the many thousands of Maltese at present in the Regency not much more than about twenty have, as far as I can ascertain, taken advantage of the invitation to become French subjects. On the contrary, what the younger members of the Maltese Colony are preparing for is to quit Tunis for other Mediterranean countries where the French are not, a consummation which, so far as I can ascertain, would be very pleasing to the French in their present mood—a mood of Chinese self-sufficiency. So that if the French continue to follow the policy at present in favour we may look little by little for the departure of the Maltese from Tunisia, or their gradual absorption as citizens of the French Republic. In fact, what has taken place in Eastern Algeria is likely to be repeated here.

This outcome has for some time been anticipated among the more intelligent Maltese in the Regency, and by the natives of Gibraltar—mainly Jews—who established themselves here in some numbers before Tunis became a French Protectorate. But the Maltese have partly consoled themselves by the reflection that when life became unbearable in Tunis they might move on to Tripoli, where, under Turkish rule, they would be free from the disadvantages which they are beginning to experience at the hands of the French.

The Gibraltar Jews in like manner talk of transferring themselves to Morocco, but of late French officialdom in this Regency has been hinting that the recently-concluded Convention with England implies the eventual extension of French authority over all North Africa, including Morocco and Tripoli, and consequently the leading Maltese in Tunis have asked me with great concern whether there is any truth in these rumours. I have told them that, so far as I know, Her Majesty's Government never intended to convey any sanction to French schemes east and west of Algeria and Tunis in North Africa.

I merely draw your Lordship's attention to these matters, because there are two points which I think it important to emphasize. One is the growing disposition on the part of the French to consider their possessions in North Africa as only intended for the occupation, profit, and enjoyment of French citizens, and the second is the importance of the Maltese question in the Mediterranean countries. The Island of Malta is already over-populated, and I gather from my recent conversations with the officials of the Malta Government that it is not at all desired that Maltese once out of the island should return there, even to live as members of the leisured class. Yet at the same time the idea of losing these frugal, hard-working, sober, creditable people as citizens of the British Empire is repugnant to our feelings, and may be eventually hurtful to our trade. Consequently, it is to our interest in this respect that a fair proportion of the countries in the Mediterranean basin should either come

under British influence, and, therefore, be open to Maltese enterprise, or remain under the rule of Mahomedan States, who, whatever their delinquencies may be, do not regard it as a matter for lament and active discouragement that British subjects should trade with, settle in, and prosper by the countries under their rule.

At this juncture, when the younger men among the Tunisian Maltese were feeling peculiar dissatisfaction with French procedure, Proclamations were sent from the Government of Malta to the British Consulate for circulation amongst the Maltese, inviting them to come forward as recruits for the new regiments of Maltese which are to be added to the British army.

The effect has been extraordinary. So many recruits have offered themselves, that it seems quite possible that the two regiments might be furnished from Tunis. This has come as a great relief to the dispossessed fishermen and the discharged railway employes, but it will only add to the tendency on the part of the Maltese to gradually withdraw from the Regency of Tunis.

I have, &c.
(Signed) H. H. JOHNSTON.
Her Britannic Majesty's Consul-General.

No. 12.

Consul-General Sir H. Johnston to the Marquess of Salisbury.—(Received April 22)

(No. 15.)

My Lord,

With reference to your Lordship's telegram of the 14th April I think it better to reply in a despatch, as there would seem to be some misapprehension of the meaning of my question put by telegraph.

A few weeks ago an officer from a Malta regiment came to see me here in recreation to certain business, and brought with him a letter from the Military Secretary of the Governor of Malta. He questioned me amongst other matters on the possibility of obtaining recruits from amongst the Maltese in Tunis for the two new regiments which were being recruited at Malta. I told him I thought the idea a good one, and that it was very opportune at a time when so many young Maltese were being the want of employment on railways, in fisheries, and on public works, through their not being, or refusing to become, French subjects. After this officer returned to Malta, he sent over a number of copies of a Proclamation in Maltese, which he asked me to make known to the Maltese subjects in Tunis. This Proclamation, which, as I have said before, was in the Maltese language, set forth the advantages of military service to the young able-bodied Maltese. Amongst other inducements to join it, offered a gratuity of 1*l.* on recruitment. The rate of pay was also a generous one. Consequently, as soon as the matter became known, hundreds of Maltese offered themselves as recruits. As nothing had been said about the payment of the passage-money of those Maltese who wished to proceed from Tunis to Malta for the purpose of becoming recruits, I wrote to the Governor of Malta asking if the Maltese Government would authorize me to pay either the bounty of 1*l.* or the third-class fare from Tunis to Malta, or both these amounts to Maltese recruits who had passed a medical examination at the hands of the Maltese Government's surgeon, and who fulfilled the conditions set forth in the Proclamation. To my surprise, the Governor replied by telegraph asking me to refer the matter to the Foreign Office, which was why I communicated with your Lordship.

I have now told the applicants for recruitment that they can read the Proclamation and act on it if they choose. That is to say, that as they are British subjects, and free to move about as they will, they can if they like go over to Malta and join the army there, or do anything they like in that way.

Except as regards spreading information as to this new field of employment for many young Maltese who find it difficult to live in the Regency of Tunis any longer, I had no intention of acting as recruiting officer for the British army in such a manner as would give offence or annoyance to the French authorities, and, of course, I should not have attempted to persuade French or Tunisian subjects to enlist in a British regiment. To ask the permission of the French to make a communication of this kind to British subjects would, I think, be a step that would place us in a very false position, and one for which I know of no precedent. Moreover, it would at

once raise in the minds of the French suspicion as to the real purport of our action in raising two more Maltese regiments, an action which, as your Lordship knows, is of no more hostile import to the French than the adding of two more native regiments to the Indian army. At the present time French susceptibilities are so morbidly excited that I avoid, as much as possible, official communications. My personal relations with the French officials in the Regency are quite friendly.

Under the circumstances, therefore, I have decided to take no further action in the matter of obtaining recruits in Tunis for the Maltese regiments. The Proclamation, in common with other papers relating to Maltese affairs, is posted up inside the Consulate, and those who choose to take advantage of its proposals can do so on their own responsibility.

I have, &c.
(Signed) H. H. JOHNSTON.

No. 14.

Foreign Office to Consul-General Sir H. Johnston

(No. 4.)

Sir,

Foreign Office, April 20, 1899.

I AM directed by the Marquess of Salisbury to acknowledge the receipt of your despatch No. 15 of the 15th instant, reporting the steps taken by you with reference to the recruitment of Maltese in Tunis for the new regiments which are to be raised at Malta.

I am to state that his Lordship approves your action in this matter.

I am, &c.
(Signed) T. H. SANDERSON.

No. 15.

Consul-General Sir H. Johnston to the Marquess of Salisbury.—(Received May 1)

(No. 17.)

My Lord,

Tunis, April 24, 1899.

IT may be of interest to your Lordship to know that the party of Scotch archæologists, respectively whom your Lordship caused a despatch to be written to me about a month ago, have now completed their inspection of the Roman ruins in Tunis, and are returning to Scotland shortly. Their representatives have called on me to inform me of the complete success that has attended their journey, and to transmit to the French Minister in this country their cordial thanks for the exceptional kindness shown to them by the French and Tunisian authorities. Every possible facility was granted to them, and a kindness was shown them which was quite unlooked for.

In some other respects, also, I am pleased to be able to remark on the improvement in the tone which now prevails in this French dependency in regard to the treatment of British subjects. I am not able to record as yet the satisfactory settlement of all questions relating to the Maltese.

I have, &c.
(Signed) H. H. JOHNSTON

No. 16.

Consul-General Sir H. Johnston to the Marquess of Salisbury.—(Received May 3.)

(No. 19.)

My Lord,

Tunis, April 28, 1899.

THE present situation in Tunis is perhaps worthy of your Lordship's passing attention.

For five years French policy in the Protectorate of Tunis has been directed by a very able Frenchman, M. René Millet. M. Millet, it is true, modelled his work a good deal on

the lines laid down by M. Paul Cambon, the present Ambassador at the Court of St James'.

But his own individuality has given his work a character which we are (perhaps from national vanity) inclined to consider peculiarly British. He has endeavoured to treat Tunisia not as a conquered country, to be wholly sacrificed to French interests, but as a State dependent on France for advice and protection, yet to be governed in such a manner as to insure in the first place the prosperity and happiness of its native population.

In short, M. Millet's work has been in many respects similar to that of Lord Cromer in Egypt. He has not had so free a hand, of course, and the dominant spirit of French Protectionist policy has compelled him from time to time in carrying out the orders of French Ministers to protect and foster French commerce in a way which is not pleasing to our ideas of free trade. But the great point to be remembered is, that M. Millet has won the sympathies of the indigenous population of Tunis to a degree that was never attained by his predecessors. Now in pursuing a policy of a fair and sympathetic treatment of the rights and aspirations of the native Tunisians M. Millet meets with increasingly factious opposition from a section of the French colony. So far as any census has yet been taken of the present population of Tunisia, it would seem that there are about 1,800,000 Mohammedans (mainly of Arabized Berber stock), some 40,000 Jews, who in common with the former are Tunisian subjects; and about 110,000 Christians.

These latter may again be split up into the following approximate divisions:—

French settlers (settlers)	..	..	..	..	..	16,000
French military forces	..	..	..	..	..	10,000
Italians	..	..	..	..	..	60,000
Maltese, English, and other British subjects	..	..	..	..	..	18,000
Arabs	..	..	..	..	..	1,000
Austrians, Germans, Portuguese, &c.	..	..	..	..	..	1,000
Total	..	..	..	..	..	110,000

The extreme section of the French colony, which finds a voice in the local press far out of proportion to its numerical strength, and which further disguises its feebleness by the loud clamour at its public meetings, has chosen to make a dead set against M. Millet, because he will not concede to the French settlers in this Protectorate the right—to put it tersely—to be politicians, and to control the finances of what still pretends to be an Arab kingdom under French protection. They further clamour for "increased protection against the natives," which means that unscrupulous Frenchmen are to be allowed to cheat the native out of his lands by legal processes, or even to shoot him at night if he objects, and yet go scot free, acquitted by the French Courts.

It is, however, to be borne in mind that these self-constituted spokesmen of the French colonists do not fairly represent more than 2,000 out of the 16,000 French settlers and officials. They consist of the lower class of press men, all the disappointed place men (who are enraged at not being provided for in the Tunisian Administration), all the lawyers who cannot obtain employment at the Courts; in short, all the noisy, talkative people, who prefer the café life of Tunis to hard work in vineyards or on a cattle ranch. But, as so often happens in similar cases, the 15,000 steady-going, hard workers are dumb, and the screeching of the worthless 2,000 seems to France the only voice of the French colonists in Tunis.

This noisy section has recently taken advantage of the journey of several French Ministers to Tunis to insult M. Millet in the grossest manner at public assemblies and on public occasions; and it is feared here that their action may weaken the confidence of the French Government in their Representative, and cause M. Millet to be withdrawn.

France no doubt has other equally able men to put in his place, but it is feared here that the seeming triumph of these agitators may compel the successor of M. Millet to pursue a policy which would weigh heavily both on the important foreign Colony of Italians and Maltese, and, above all, on the 1,800,000 natives. M. Millet's actions in fiscal matters have been by no means always pleasing to the Maltese, for instance; but the Maltese Colony in Tunis is able to distinguish between the individual whose general policy satisfies them as being fair and just, and the official obliged at times to carry out the orders of his Government. In short the foreign Colony would be very sorry to see M. Millet withdraw from the direction of Tunisian affairs. The natives would be equally so, and if the policy favoured by the French agitators in regard to native affairs were to

be enforced, a wide-spread revolt of the Tunisians would only be a matter of time. It must be borne in mind that Tunis has not been conquered by France as yet. When the French troops invaded Tunis in 1881, three-quarters of the country accepted them without resistance because Tunisia was weary of the misgovernment of the Turkish Beys, the only serious fighting the French had was at Sfax, in the south. M. Millet has done much to attach the Tunisians to French domination. Firstly by an attempt to govern the country by Tunisian officials; secondly, in the way in which he has pushed on Mohammedan education; and, thirdly, by a fair regard to their rights in land and other matters.

I sincerely trust that the French Government may not be too much impressed by the clamour of the French Chamber of Commerce in Tunis, and may uphold M. Millet and his policy. I may further state that in writing as I am doing, I express the opinion of the leading Maltese merchants in this country.

I have, &c.
(Signed) H. H. JOHNSTON.

No 17

Colonial Office to Foreign Office.—(Received May 6.)

(Confidential.)

Sir,

Downing Street, May 5, 1899.

I AM directed by Mr. Secretary Chamberlain to acknowledge the receipt of your note of the 29th ult., transmitting amongst other documents a despatch from Sir H. Johnston (Tunis, No. 14, of the 8th April), which makes reference to the treatment of Maltese settlers in Tunis.

With reference to Sir H. Johnston's statement that his communications to the French Resident, respecting complaints by Maltese of ill treatment, remain unanswered, Mr. Chamberlain would suggest, for the consideration of the Marquess of Salisbury, that Sir H. Johnston should be instructed to press for answers, and that, if necessary, the attention of the French Government should be called to the matter.

I am, &c.
(Signed) H. BERTRAM COX.

No. 18.

Sir E. Monson to the Marquess of Salisbury.—(Received May 15.)

(No. 254)

My Lord

Paris, May 14, 1899

I SPOKE this afternoon to M. Delcassé upon the case of Miss Scott and Miss Cox, the missionary ladies in Tunis, to which your Lordship's despatch No. 122 of the 30th March refers.

M. Delcassé naturally observed that if the objection formulated on the part of those ladies as to the irregularity in the proceedings against them was well founded, the Court of Cassation must, he conceived, of necessity quash the conviction. It was, however, impossible for him to act without having in his hands some more random of the case; and I promised to furnish him with one.

For the rest the remarks made by his Excellency as to the general merits of such incidents were of the same nature as those of M. Hanotaux as reported to your Lordship originally. M. Delcassé said that what was at the bottom of the Colonies' mispolicy had been that protection should be given to the religious and all the other rights of the Mohammedan population of French North Africa, and that he was convinced that any deviation from that principle might have disastrous results.

I have, &c.
(Signed) EDMUND MONSON.

No. 19.

The Marquess of Salisbury to Consul-General Sir H. Johnston.

(No. 5.)

Sir,

Foreign Office, May 19, 1899.

IN your despatch No. 14 of the 8th ultimo, respecting the attitude lately assumed by the officials of the Protectorate in their relations with British officials or British subjects, you state that you have submitted to the French Resident complaints which have reached you from Maltese of unjust treatment by the Tribunals, or of assault at the hands of French soldiers; but that in almost every case your representations have remained without reply.

If M. Milet leaves unanswered the notes addressed to him with regard to cases of any importance it will be your duty to press courteously for answers, and in case of persisted silence the fact should be reported to me, in order that representations may be made to the French Government. But, in view of the statement in your despatch that you are not at present desirous of doing anything which might make your personal relations with the French Minister disagreeable, and of the improvement in the treatment of British subjects reported in your despatch No. 17 of the 24th ultimo, I leave it to your discretion to decide the cases in which any action of this nature is necessary, and what period of delay should be allowed.

I am, &c.

(Signed) SALISBURY.

No. 20.

Sir E. Monson to the Marquess of Salisbury.—(Received May 27)

(No. 273.)

My Lord,

Paris, May 26, 1899.

I HAVE the honour to transmit herewith to your Lordship a despatch which has been addressed to me by the Military Attaché to this Embassy, reporting on the debate in the Senate on the 1899 War Budget.

I have, &c.

(Signed) EDMUND MONSON

Inclosure in No. 20.

Lieutenant-Colonel Douglas Dawson to Sir E. Monson

(No. 30.)

Sir,

Paris, May 25, 1899.

WITH reference to my despatch No. 22, the War Budget came on for discussion by the Senate on the 20th instant.

The only interesting point raised was that of the defence of the North African littoral in a speech by M. Treille. The Senator remarked that the whole coast, and that of Tunis in particular, was insufficiently defended. The measures hastily taken on the Fashoda incident appeared to be abandoned. This was specially the case at Soukarras, where the protective works and the building of barracks had been stopped. Soukarras, astride of the Bona-Guelma railway between Bona and Tunis, had its strategic value as enabling the two newly-created battalions to be sent in either direction. Its climate, also, was exceptionally favourable owing to its altitude. It would be wicked to abolish this favourable spot as a garrison town.

The action of M. de Freycinet in attaching the Tunis division to the 10th Army Corps command was viewed with dislike, and would be made the subject of expostulation.

The speaker concluded by an appeal to the Minister not to reduce the garrison of Algeria, and if forced to withdraw the 4th Battalions to replace them, and to fill up the big gaps in the ranks of the Zouaves, whose battalions were only 400 strong.

The War Minister replied that one conclusion to be drawn from the sad experiences of the past was that the defence of Algeria and Tunisia must be counted an element of

national defence. Under these circumstances, not only at the moment of speaking, had not one of the four battalions dispatched there last winter been withdrawn, but it was now no longer a question of removing them at a fixed date, as originally decided.

Further, the formation of the eight battalions of Tirailleurs ordered by the Law of the 9th February, 1890, was working most satisfactorily.

No doubt, as yet, Bizerta was not the "grande place de guerre et de marine" which it would one day be, but at any rate it was now in a proper state of defence, "and we never lose sight of the necessity to realize all that is required to make Bizerta a fortress to compare with Gibraltar, Malta, Maddalena, and Spezia." On this point the Minister expressed himself as being firmly convinced and decided. He had just returned from Tunis, and had passed en route close to Maddalena. Seeing the short distance between this fortress and the Corsican and Tunisian coasts, he was firmly decided to ask Parliament for credits which would assure in the north of Africa defence and national independence.

After lengthy discussion on subjects of small interest the War Budget for 1899 was passed by the Senate.

I have, &c.

(Signed)

DOUGLAS DAWSON,

Lieutenant-Colonel, Military Attaché.

No. 21.

Consul-General Sir H. Johnston to the Marquess of Salisbury.—(Received June 5.)

(No. 30.)

My Lord,

Tunis, May 28, 1899.

IN reply to your Lordship's despatch No. 5 of the 10th May, I have the honour to inform your Lordship that the French Residency has now replied to a proportion of the letters which I have been obliged to write from time to time concerning the affairs of British subjects. I must admit that no case has been settled favourably, but in some instances what seemed to me good and sufficient reasons were given for the inability to do so.

In the case of an English lady who was to derive a legacy left to her in 1895 from property situated in Tunis, and whose case has been going on since that period without any settlement having been arrived at, I am glad to say that I have induced the French Minister to take the matter up, and I am informed, firstly, that a decision in this lady's favour has just been given by the Tunis Tribunal, and as soon as the question of an appeal to Algiers is set aside, there is some prospect of her getting the money which has been due to her for four years.

There still remains several cases unsettled, where the reply to my despatches from the French Residency have seemed to me inconclusive or disobliging. One of these cases might, I think, with advantage be taken up by your Lordship and pressed at Paris.

About two months ago a respectable Maltese hackney-coachman, named Antonio Pace, was driving back several persons from the Bardu Palace to Tunis when his carriage was attacked suddenly by a party of French soldiers or non-commissioned officers, apparently with the intention of the carriage being seized and used by these men. The occupants of the carriage were so alarmed that they descended and disappeared. The unfortunate coachman received a sabre cut on the head which penetrated to the skull. Seeing people running up to his assistance, the soldiers decamped.

Antonio Pace was then taken away by the Italian Society for offering first help to the wounded, and eventually conveyed to his home, where he remained ill for nearly a week. On his recovery he called, at my advice, on the Officer Commanding the troops in the vicinity of Tunis, and lodged his complaint. The only compensation he asked for was the payment of his medical expenses, for which he put in bills amounting to a total of about 45 fr.—certainly a modest demand under the circumstances, especially when this wound prevented his working for a whole week. But from first to last he has been treated in the most ungenerous manner.

This assault I might state took place in the early evening on a much-frequented thoroughfare, was witnessed by a great many persons, and was reported by all the Tunisian newspapers, even the French newspapers characterizing it in the strongest terms as an act of disgraceful brutality on the part of drunken soldiers.

Antonio Pace was ordered to be at the barracks on a certain day to identify, if possible, his assailants; but he explained that, as he had been struck from behind and then stunned and rendered insensible, it was quite impossible for him to identify the persons who had assaulted him; he could only assert that they seemed to him to belong to a certain regiment, and as numerous persons had seen the affair take place, it would be very easy to find witnesses. Moreover, he did not wish to pursue the affair any further if his actual out-of-pocket expenses were paid, namely, the 43 fr. above alluded to. The military authorities, however, refused all compensation, on the plea that he could not identify his assailants. I then took up his case and wrote to the French Minister on the subject. It was a very long time before I received any reply, and, when I did, it was unfavourable. The French Minister saw no reason to interfere with the decision of the military authorities.

I think this is a case which might legitimately be carried to Paris. It is not a question of attempting at this late date to identify the four soldiers who attacked Antonio Pace: it is a matter of public knowledge that he was attacked and severely wounded by French soldiers.

As he merely asks for the payment of his doctor and his medicines—let us say, a total of 13 fr.—it seems to me that the French Government in Tunis might very well commit itself to this act of grace.

I have not been able to enter into details as I should have liked, because the French Minister still holds all the accounts which I sent in to him (thinking that he would be glad to settle a disagreeable business so very cheaply); but if it is necessary for your Lordship to take up this matter, I will obtain duplicates of these accounts, and send them to your Lordship.

I have thought it well to make one more appeal to the French Minister in the matter, and, therefore, unless your Lordship hears from me again on the subject, it may be hoped that some satisfaction has been afforded to Antonio Pace. If the reply, however, does not come soon, or is not favourable, I will leave it to your Lordship's judgment whether or not an appeal should be made to Paris.

I have, &c.
(Signed) H. H. JOHNSTON.

No. 22.

Consul-General Sir H. Johnston to the Marquess of Salisbury.—(Received June 13.)

(No. 27.)

My Lord,

Tunis, June 10, 1899

I BEG to inclose, for your Lordship's information, a copy of the "Journal Officiel Tunisien" containing a Decree of the 20th May 1899, regarding Custom-house precautions. It appears to me as though some Articles in this Decree are entirely in conflict with the provisions of international law or with Treaty arrangements between Great Britain, France, and Tunis. "Deux myriamètres" would be, I believe, 20 kilom. from the shore, and consequently far exceeding the limit of 3 sea miles, which I have always understood was the limit of control which a Maritime Power had over its coasts.

And the arrangements about visiting and searching (British) ships in harbours seem to me to be equally opposed to our Treaty rights.

However, before making any representations to the Local Government I should like to have your Lordship's opinion on the subject.

I have, &c.
(Signed) H. H. JOHNSTON.

Inclosure in No. 22.

Extract from the "Journal Officiel Tunisien" of May 27, 1899.

Décret du 20 Mai, 1899 (11 Maharrem, 1317)

Louages à Dieu!

VOUS, Ali Pacha Bey, possesseur du Royaume de Tunis,

Vu les dispositions du Décret du 3 Octobre, 1884, et des Décrets postérieurs, en ce qui concerne les marchandises prohibées, soit à l'entrée, soit à la sortie de la Régence;

Attendu que ces prohibitions intéressent non seulement le Trésor, mais encore, et à un plus haut degré, dans certains cas, l'agriculture, la santé, et la sécurité publiques; qu'à ces points de vue il importe d'en assurer la stricte observation;

Attendu que les moyens dont l'Administration dispose, en état de la législation, ont été reconnus insuffisants pour atteindre ce but,

Ayons pris le Décret suivant:—

Article 1^{er}. L'Article 14 du Décret sus-visé du 3 Octobre, 1884, sur les douanes, est abrogé et remplacé par les dispositions ci-après:—

"Article 14. Les capitaines de tous bâtiments de commerce arrivés dans les 2 myriamètres des côtes devront, lorsqu'ils en seront requis, présenter au visa des préposés des douanes leur manifeste original et remettre aux dits préposés une copie certifiée et signée de ce document, à peine d'une amende de 1,000 fr. et d'une somme égale à la valeur du chargement.

"Les préposés des Services des Douanes, de la Navigation, et des Pêches pourront visiter tous bâtiments de commerce au-dessous de 100 tonneaux étant à l'ancre ou louvoyant dans les 2 myriamètres des côtes, hors le cas de force majeure. Si ces bâtiments ont à bord des marchandises, inscrites ou non au manifeste, dont l'entrée ou la sortie est prohibée en Tunisie, ils seront condamnés à ce que les cargaisons, avec amende de 100 fr. contre les capitaines.

"Les préposés des Douanes pourront, soit avant soit après la déclaration, aller à bord de tout bâtiment de commerce entrant dans les ports ou radoub ou en sortant, montant ou descendant les rivières, y demeurer jusqu'au déchargement ou sortie, requérir l'ouverture des écoutes, chambres, armoires, caisses, ballots, tonneaux, et autres enveloppes, à l'effet d'y faire les visites nécessaires pour prévenir la fraude. Au refus des capitaines d'ouvrir les chambres, armoires, &c., les préposés demanderont l'assistance d'un officier de police judiciaire ou d'un officier Municipal, pour faire l'ouverture en sa présence, ce dont il sera dressé procès-verbal aux frais des capitaines, qui seront personnellement condamnés, pour refus, à une amende de 500 fr. Lorsque la visite à bord présentera des difficultés, les préposés pourront faire transporter, de jour, au bureau, pour y être vérifiés, les colis présumés conteurs des marchandises prohibées ou non déclarées."

Art. 2. Le Directeur des Finances est chargé de l'exécution du présent Décret.

Vu pour promulgation et mise à exécution

Le Ministre Plénipotentiaire,
Résident-Général de la République Française,
(Signé) RENE MILLET.

Tunis, le 20 Mai, 1899

No. 23.

Memorandum by Mr. Davidson on Consul-General Sir H. Johnston's No. 27, June 10, 1899.

1. A MYRIAMÈTRE is, I believe, 10,000 metres, or 10 kilomètres.

2. The British "Hovering Act," passed in 1736 (9 Geo. II, cap. 35), was repealed in 1826 by 6 Geo. IV, cap. 103, and 6 Geo. IV, cap. 103 was repealed by "The Statute Law Revision Act, 1873."

The "Hovering Act" of 1736 assumes, for certain revenue purposes (section 23),

[1545]

II

a jurisdiction of 4 leagues from the coasts by prohibiting foreign goods to be transhipped within that distance without payment of duties.

But the Act of 1738 was based on the doctrines of an even earlier date, when we maintained our jurisdiction over the King's Chambers, and when the security of British commerce was provided for by express prohibitions against the roving or hovering of foreign ships of war so near the neutral coasts and harbours of Great Britain as to disturb or threaten vessels homeward or outward bound; and captures of enemies' vessels, if made within the King's Chambers, would in those days have been restored by the Court of Admiralty, which claimed jurisdiction over the King's Chambers.

[See "Whenton's International Law," third English edition, 1889, pp. 272, 273.]

Our present Customs legislation ("The Customs Consolidation Act, 1876," section 170) does not assert jurisdiction in the case of non-British ships beyond the 3-mile limit, and section 179 by asserting jurisdiction over British ships with false bulkheads, &c., up to 3 leagues from the shore, while only claiming it over foreign ships in the like case up to 1 league from the shore, implicitly admits that our jurisdiction over foreign ships ceases with the 3-mile limit.

There remains for a passing notice the doctrine of "hot pursuit," whereby the pursuit of a vessel which has offended within the 3-mile limit, and which the authorities have unsuccessfully endeavoured to arrest within the 3-mile limit, is continued outside the 3-mile limit.

This, of course, is an exceptional case, and no principle can be deduced from it—even the right to continue a pursuit begun under such circumstances within the territorial waters into the high seas, which are the common property of nations, be admitted—on which to found a general claim to visit and rummage up to a distance of 20 kilm, from the shore.

I agree with Sir H. Bergue that such a claim is probably not inconsistent with the actual Treaty engagements of France if it should be applied equally and impartially to all vessels. But I think that it is, in the absence of express Treaty stipulation conceding it to France by this country, contrary to the general principles of international law.

I say conceding it to France because, although the Decree is nominally made by the *Al-Mukharrij*, *possesseur du Royaume de Tunis*, it is countersigned and approved by the French Resident-General, who represents the French Republic as the Suzerain Power, and as the Suzerain Power France is responsible to this country and to other foreign nations in regard to the matter.

I think the Decree ought to be referred to the Law Officers, with a short explanation of the circumstances, and that they should be asked whether it is, in their opinion, desirable that Her Majesty's Government should protest against the issue of this Decree, and, if so, on what special ground such a protest may most advantageously be based.

Having regard to the principle involved, which is that of the assertion of jurisdiction beyond the 3-mile limit—whether it be for customs purposes, for fishery purposes (as in the recent case of Iceland), or for what else is immaterial comparatively—I conceive that it is very important to protest against any attempt to extend the doctrine of the 3-mile limit otherwise than by general international agreement and consensus.

So long as we stick tenaciously to the 3-mile limit we have got a *solid ground*, but if the limit be once overstepped we shall lose our firm footing at once.

The 3-mile limit at any rate is universally accepted as a minimum; if it is to be extended, it must be done by international consensus, then each nation can scarcely be proved on foot extending it according to its own individual taste and fancy.

France is content to stop 20,000 metres from low-water mark in the present case, but *non constat* that Germany or Russia or the United States of America may not claim to extend, in the case of their own waters, the limit still further. We can, so far as I know, oppose no better arguments against an extension of 3 miles to 20 miles than against an extension of 3 miles to 3 myriamètres, which is, I think roughly speaking, about 13 miles. It is simply a question of degree once the time-hallowed 3-mile limit is passed.

W. E. D.

June 15, 1899.

No. 24

Foreign Office to the Law Officers of the Crown.

Gentlemen,

Foreign Office, June 21, 1899.

I HAVE the honour to transmit, by direction of the Marquess of Salisbury, a despatch which has been received from Her Majesty's Consul-General at Tunis, enclosing a copy of a Decree issued by the Bey and countersigned by the French Resident-General, which purports to extend the jurisdiction of the Tunisian Customs authorities beyond the territorial waters of the Regency.

The Decree in question, which is designed to prevent the introduction into Tunisia of certain prohibited articles, gives power to Tunisian Custom-house officers to visit trading-vessels within a radius of 2 myriamètres (or about 13 statute miles) from the shore, and imposes penalties in cases in which masters of vessels refuse compliance with its provisions.

By the same Decree, Custom-house officers have authority to visit trading vessels while in port, while lying in roadsteads, or while engaged in ascending or descending rivers.

The French Government is primarily responsible to foreign Powers for the acts of the native Administration of Tunis, and consequently any objection which may be entertained by foreign Powers to administrative or legislative measures adopted by the Tunisian authorities must be addressed to France as the Suzerain Power.

For the reasons amongst others, which are set out in the Memorandum (inclosed) by Mr. Davidson, Q.C., the Legal Adviser to this Department,† the terms of the Decree under consideration—in so far as they purport to confer powers of visit and search in regard to foreign merchant-vessels outside the 3-mile limit—appear to be *ultra vires* in contemplation of international law and open to great objection.

I am therefore to request you to take the terms of the Beylical Decree into your consideration, and to favour Lord Salisbury with your opinion as to whether it is desirable for Her Majesty's Government to protest against its issue, and, if so, on what special grounds such a protest may most advantageously be based.

Lord Salisbury will be glad at the same time to be favoured with any observations of a general nature which you may desire to offer on the subject.

I have, &c.
(Signed) FRANCIS BERTIE.

No. 25

Sir E. Monson to the Marquess of Salisbury.—(Received July 5.)

(No. 325)

My Lord,

Paris, July 4, 1899.

WITH reference to my despatch No. 254 of the 14th May last, I have the honour to report that I sent to M. Delcassé a Memorandum giving an account of the circumstances of the conviction of Miss Cox and Miss Scott, as reported by Sir H. Jackson in his despatch to your Lordship of the 10th March; and I have to-day received from his Excellency a Memorandum in reply, from the inclosed copy of which your Lordship will see that, according to their own admission, these ladies have infringed the law prohibiting the distribution of tracts, &c., in public places, and that the same offence, on another occasion, was proved against them by the evidence of three witnesses.

The latter part of the Memorandum is devoted to showing that the proper summonses were served on both these ladies to appear before the Court, and concludes by stating that there appears to be no possible doubt as to the truth of the charges brought against them, or as to the regularity of the proceedings taken.

I have, &c.
(Signed) EDMUND MONSON.

Inclosure in No. 25.

Memorandum.

POUR répondre au Mémoire qui lui a été remis, le 13 Mai dernier, par l'Ambassadeur de Sa Majesté Britannique, le Ministre des Affaires Étrangères a l'honneur de porter à la connaissance de Sir Edmund Monson les renseignements qui lui ont été fournis par l'Administration du Protectorat Tunisien et qui se réfèrent aux poursuites dirigées contre les Dames Cox et Scott, le colportage ou distribution sur la voie publique ou dans les lieux publics d'écrits ou brochures, sans autorisation préalable, constitue une contravention à l'Article 7 de la Loi du 25 Hidjeh, 1301 (14 Octobre, 1884), sur le régime de la presse en Tunisie.

Or, il résulte d'un premier Jugement rendu le 3 Mars, 1897, par le Tribunal de Sousse, que la Dame Scott a reconnu avoir distribué des écrits et brochures ayant trait à des sujets religieux, sans avoir demandé l'autorisation nécessaire. De même la Dame Cox, condamnée le 30 Mars, 1898, par le Tribunal de Sousse, avait, d'après sa propre déclaration, mentionnée aux considérants du Jugement, remis plusieurs brochures à divers indigènes, dans un café Maure de Kribet (Sousse).

Enfin la nouvelle condamnation prononcée contre les Dames Cox et Scott, par le même Tribunal, le 30 Novembre dernier, s'appuie sur les dépositions de trois témoins qui ont établi les faits de colportage et aux affirmations desquelles les prévenues n'ont pu opposer aucune preuve contradictoire.

D'autre part il résulte des pièces de la procédure que dans ces différentes circonstances les Dames Cox et Scott ont été régulièrement citées à comparaître devant la justice.

Mlle. Scott a été citée à huis clos le 13 Février, 1897, à son domicile à Sousse à exploit d'huissier, parlant à sa personne, le 20 Mai, 1898.

Ces deux personnes poursuivies de nouveau pour récidive ont été l'objet d'une nouvelle assignation par exploit d'un huissier de Djerba, lieu de leur résidence, le 13 Juillet, 1898. Elles ont fait défaut, ont été condamnées le 12 Août et se sont enfin présentées en personne au Tribunal le 30 Novembre, le dernier Jugement rendu contradictoirement a donné lieu à un appel devant la Cour d'Alger, qui l'a confirmé.

Tout en faisant bénéficier les prévenues de la loi de sursis en ce qui concerne l'exécution de la peine d'emprisonnement :

Dans ces conditions il ne semble pas qu'il puisse subsister de doute sur la réalité des charges relevées contre les Dames Cox et Scott et sur la régularité de la procédure engagée contre elles.

Le 1^{er} Juillet, 1899.

No. 26.

The Law Officers of the Crown to the Marquess of Salisbury.—(Received July 5.)

My Lord,

Royal Courts of Justice, July 4, 1899.

WE were honoured with your Lordship's commands signified in Sir Martin Gosselin's letter of the 24th instant, stating that he was directed by your Lordship to transmit to us a copy of a Decree issued by the Bey of Tunis purporting to extend the jurisdiction of the Tunisian Customs authorities beyond the territorial waters of the Regency, and to request us to favour your Lordship with our opinion as to whether it was desirable for Her Majesty's Government to protest against the issue of the Decree, and, if so, on what special grounds such a protest might most advantageously be based.

We have taken the matter into our consideration, and, in obedience to your Lordship's commands, have the honour to

Report—

In our opinion it is desirable that Her Majesty's Government should protest against the issue of the Decree in question.

The protest should be based on the ground that the Decree assumes jurisdiction over British ships beyond the limits of the territorial waters of Tunis.

There is no doubt that in former times jurisdiction was asserted particularly for customs purposes to a limit considerably exceeding that of 3 miles from the shore. One

illustration is afforded by the Hovering Act of 1736 (9 Geo. II, cap. 35), and another by the Act of Congress of the United States of America of the 2nd March, 1799 (5th Congress, Session 3, chapter 22), which, by the 25th, 26th, 27th, and 28th sections, assumed jurisdiction in the case of vessels bound for ports of the United States up to a limit of 4 leagues. The validity of such an extension of jurisdiction was maintained by the Supreme Court of the United States in the case of *Church v. Hubbard* (2 Cranch's Reports, 186), in the matter of a seizure by the Portuguese 4 or 5 leagues off the coast of Brazil. We may also refer in this connection to the observations of Lord Stowell in the case of "*Le Louis*" (2 Doherty's Admiralty Reports, pp. 245-46).

At the present day territorial jurisdiction cannot be regarded as conceded by international law beyond the 3-mile limit. It is recognized by our present Customs Act and in "*The Sea Fisheries Regulation Act, 1895*," section 10, it was provided that the power of making bye-laws within the limit of 12 miles should be exercised only with the consent of all the States Signatory of the North Sea Convention, 1892.

We are, therefore, of opinion that in the absence of special agreement or of an extension of the limit by general assent, Her Majesty's Government should not acquiesce in the assertion by any foreign Power of jurisdiction over the sea beyond the 3-mile limit.

The propriety of that limit has been much discussed, and it might probably with advantage be extended, but, until by international consent, an extension has been arranged, we think that Her Majesty's Government ought to require that other Powers should observe the 3-mile limit as Her Majesty's Government does with reference to the sea adjoining British dominions.

We may add that in the case of the Decree now in question the power is a very wide one, and is not even confined to the case of vessels bound for Tunisian territory.

The protest should be based on the broad ground that territorial jurisdiction is not by international law recognized beyond the 3-mile limit, and that this Decree purports to assert it to a distance of 20 kilom.

We have, &c.

(Signed)

RICHARD E. WEBSTER.
ROBERT B. FINLAY.

No. 27.

Foreign Office to Acting Consul-General Lascelles.

(No. 6.)

Sir,

Foreign Office, July 13, 1899.

I AM directed by the Marquess of Salisbury to inform you that on the receipt of Sir H. Johnston's despatch No. 10 of the 16th March last respecting the prosecution of Miss Cox and Miss Scott of the North African Mission, Her Majesty's Ambassador in Paris was requested to communicate with the French Government with a view to obtaining either an abandonment of the prosecution or an arrest of judgment in the event of the decision of the Lower Court being upheld by the Cour de Cassation.

I am to transmit to you herewith, for your information, a copy of a despatch from his Excellency,* inclosing a Memorandum which has been communicated to him by the French Government in reply to his representations.

It will be seen that the French Government contend that there is no doubt as to the truth of the charges brought against the ladies, or as to the regularity of the proceedings taken.

I am, &c.

(Signed)

T. H. SANDERSON.

No. 28.

Foreign Office to Acting Consul-General Lascelles.

(No. 4. Commercial.)

Sir,

Foreign Office, July 14, 1899.

I AM directed by the Marquess of Salisbury to state that he has had under his consideration, in consultation with the Law Officers of the Crown, Sir Harry Johnston's

despatch No. 27 of the 10th ultimo, inclosing a Decree issued by the Bey of Tunis, and countersigned by the French Resident-General, which purports to extend the jurisdiction of the Tunisian Customs authorities beyond the territorial waters of the Regency.

As the French Government is primarily responsible to foreign Powers for the acts of the native Administration of Tunis, Lord Salisbury has instructed Her Majesty's Ambassador at Paris to protest on behalf of Her Majesty's Government against the issue of this Decree, on the ground that it purports to assert territorial jurisdiction over British ships up to a distance of 20 kilom. from the coasts of the Regency, whereas such jurisdiction is not by international law recognized beyond the 3-mile limit.

I am, &c.
(Signed) T. H. SANDERSON.

No. 29.

The Marquess of Salisbury to Sir E. Monson.

(No. 140. Commercial.)

Sir,

Foreign Office, July 18, 1899.

I TRANSMIT to your Excellency herewith a copy of a despatch from Her Majesty's Consul-General in Tunis, inclosing a Decree, issued by the Bey and countersigned by the French Resident-General,* purporting to extend the jurisdiction of the Tunisian Customs authorities beyond the territorial waters of the Regency.

This Decree, which is designed to prevent the introduction of certain prohibited articles of commerce into Tunis, gives power to the Custom-house officers of the Regency to visit trading-vessels within a distance of 2 myriamètres (or about 13 statute miles) from the shore, and imposes penalties in cases in which masters of such vessels refuse to comply with its provisions.

I also inclose, for your confidential information, a copy of a Memorandum by the Legal Adviser to this Department on the subject of the Decree,† together with a copy of a Report by the Law Officers of the Crown to whom the question was subsequently referred.‡

As the French Government is primarily responsible to foreign Powers for the acts of the native administration of Tunis, I request that your Excellency will protest on behalf of Her Majesty's Government against the issue of the Decree on the ground that it purports to assert territorial jurisdiction over British ships up to a distance of 20 kilom. from the coasts of the Regency, whereas such jurisdiction is not by general international law as opposed from special Treaty stipulation, which is not present in this case, recognized beyond the 3-mile limit.

I am, &c.
(Signed) SALISBURY.

No. 30.

Mr. Herbert to the Marquess of Salisbury.—(Received July 21.)

(No. 169. Commercial.)

My Lord,

Paris, July 19, 1899.

I HAVE the honour to transmit to your Lordship herewith copy of a note which I have addressed to the French Minister for Foreign Affairs, in accordance with the instructions contained in your Lordship's despatch No. 140, Commercial, of the 18th instant, protesting against the Decree recently issued by the Bey of Tunis, the purport of which is to extend the jurisdiction of the Tunisian Customs authorities beyond the territorial waters of the Regency.

I have, &c.
(Signed) MICHAEL H. HERBERT.

* No. 27.

† No. 73.

‡ No. 21.

Inclosure in No. 30.

Mr. Herbert to M. Delcassé.

M. le Ministre,

Paris, July 19, 1899.

THE attention of Her Majesty's Government has been called to a Decree, dated the 20th May last, which has been issued by the Bey of Tunis, and countersigned by the French Resident-General, purporting to extend the jurisdiction of the Tunisian Customs authorities beyond the territorial waters of the Regency.

The Decree, which is designed to prevent the introduction of certain prohibited articles of commerce into Tunis, give power to the Custom-house officers of the Regency to visit trading vessels within a distance of 2 myriamètres from the shore, and imposes penalties in cases in which masters of such vessels refuse to comply with its provisions.

Her Majesty's Government are of opinion that the Decree, in assuming territorial jurisdiction beyond the 3-mile limit in the absence of express Treaty stipulations, or of an extension of the limit by general assent, constitutes an infraction of the general principles of international law; and, in view of the fact that the Government of the French Republic, as Suzerain Power, is primarily responsible to foreign Powers for the acts of the native administration of Tunis, I have been directed by Her Majesty's Principal Secretary of State for Foreign Affairs to protest, on behalf of Her Majesty's Government, against the issue of the instrument in question, and to record formally their inability to acquiesce in the assertion by any foreign Power of jurisdiction over the sea beyond the 3-mile limit otherwise than by international agreement and consent.

I have, &c.
(Signed) MICHAEL H. HERBERT.

No. 31.

The Marquess of Salisbury to Mr. Herbert.

(No. 146. Commercial.)

Sir,

Foreign Office, July 28, 1899.

WITH reference to your despatch No. 169, Commercial, of the 19th instant, I approve the terms of the note addressed by you to the French Government protesting against a Decree issued by the Tunisian Government on the 20th May last, purporting to extend the jurisdiction of the Tunisian Customs authorities beyond the territorial waters of the Regency.

I am, &c.
(Signed) SALISBURY.

No. 32.

Sir E. Monson to the Marquess of Salisbury.—(Received September 9.)

(No. 207. Commercial.)

My Lord,

Paris, September 8, 1899.

WITH reference to your Lordship's despatch No. 140, Commercial, of the 18th July last, I have the honour to transmit to your Lordship herewith copy of the reply which I have received from the French Minister for Foreign Affairs relative to the Beylical Decree, which has been issued purporting to extend the jurisdiction of the Tunisian Customs authorities beyond the territorial waters of the Regency.

As your Lordship will observe, M. Delcassé considers that Her Majesty's Government have misapprehended the bearing of the Decree in question, and declares that it merely extends to Tunisian waters the régime applied by the French Customs authorities in French waters.

I have, &c.
(in the absence of the Ambassador.)
(Signed) MICHAEL H. HERBERT.

Inclosure in No. 32.

M. Delcassé to Mr. Herbert.

M. le Ministre,

Paris, le 4 Septembre, 1890.

A LA date du 19 Juillet dernier, vous avez bien voulu appeler mon attention sur le Décret pris, le 20 Mai dernier, par le Gouvernement Tunisien, en vue de réglementer la visite des bâtiments de commerce par les agents des Douanes, sur les côtes de la Régence. Aux termes de cette communication, le Gouvernement Britannique estimait qu'en l'absence de stipulation internationale expresse, la juridiction locale ne devrait pas s'exercer au delà de 3 milles, limite qui serait assignée aux eaux territoriales par les principes généraux du droit des gens.

J'ai l'honneur de vous faire connaître que le Décret beylical dont il s'agit reproduit dans ses dispositions essentielles et avec quelques atténuations la législation Française sur la matière, notamment la Loi du 6 22 Aout, 1791, Articles 6 et 10, et la Loi du 4 Germinal an 11, Titre II, Articles 3, 5, 7, et 8. Ces prescriptions ont pour objet non de définir l'étendue des eaux territoriales, mais de préciser les conditions dans lesquelles la surveillance des agents Douaniers s'exerce sur les bâtiments d'un certain tonnage naviguant le long des côtes. Elles n'ont jamais donné lieu à aucune réclamation.

Je ne doute pas que ces détails ne vous permettent d'éclairer votre Gouvernement sur la véritable portée d'une mesure par laquelle l'Administration Tunisienne a purement et simplement étendu à la Régence le régime appliqué par la Douane Métropolitaine sur les frontières de mer Françaises. Subsidièrement et à titre d'information, j'ai l'honneur de vous rappeler que les Législations étrangères notamment celles de l'Autriche-Hongrie, de la Belgique, de l'Italie, prévoient les visites et perquisitions de la Douane au delà de la mer territoriale dans un rayon fixé à 10 kilom. par la Loi Douanière Italienne (Article 24) et par la Loi Belge (Article 102) et à 2 lieues marines par la Loi Austro-Hongroise.

Agréez, &c.
(Signé) DELCASSÉ.

No. 33.

Memorandum by Mr. Streetfield on Sir E. Monson's No. 207, Commercial, of September 8, 1890.

"Can the Library give any information as to alleged Customs legislation of Italy, Belgium, and Austria-Hungary? I never heard of this before.—M. G.—12/9/90."

I HAVE been unable to discover in our Library the Customs laws of Austria-Hungary, Belgium, and Italy which are referred to by M. Delcassé, but the dates of which he omits to give. The Customs laws of those countries appear to be frequently revised and added to, and without the dates it is very difficult to discover the Articles he mentions, even supposing we do possess copies of the laws in the Library. For instance, M. Delcassé alludes to Article 24 of the Italian Customs Law, but in the Law of 1862 the provision referred to appears in Article 35, and it will be seen from what follows that the Italian Government stated in 1874 that Customs surveillance had been extended to 10,000 metres from the coast.

In 1874, in consequence of the pretensions put forward by Spain to a maritime jurisdiction of 6 miles, a Circular despatch was addressed by Lord Derby to Her Majesty's Representatives at the principal Maritime Courts,* instructing them to state to the Court to which they were accredited that Her Majesty's Government would be glad to be made acquainted with their views as to the extent of maritime jurisdiction that, in their opinion, could properly be claimed by any Power, and further to be informed whether they had ever recognized the claim of Spain to a 6-mile limit, or had ever protested against such claim.

The replies of the various Governments are contained in the accompanying Confidential Print, No. 2633, and are also embodied in a Memorandum by Sir E. Hertslet, Confidential No. 4636, pp. 24, 27.

* Confidential Print No. 4636, p. 23.

The reply of the French Government, which appears to have been only the personal opinion of the Minister for Foreign Affairs, and was to the effect that this claim on the part of Spain was quite inadmissible, will be found on p. 11 of Confidential No. 2633.

No allusion was made to Customs jurisdiction, which (according to a Memorandum in the case of "Le Petit Jules," contained in p. 35 of Confidential No. 2633), in 1850, extended to 4 leagues from the French coast.

The replies of the Austrian Government will be found on pp. 26 and 27 of the same paper, and were to the effect that they had never recognized the Spanish pretension, but they were disposed to take the same view of the question as the Swedish and Norwegian Government, who claimed to recognize jurisdiction within 4 geographical miles from their coasts in connection with their fishermen.

The Belgian Government replied that, in one instance, Belgium had claimed a jurisdiction to a distance of 3 miles from her own coast, but had no previous cognizance of the claim put forward by Spain.†

The reply of the Italian Government was to the effect that it had had no occasion to discuss the question with that of Spain, but that it accepted as a maxim generally adopted by writers of the highest authority on international law, that the political dominion which created complete jurisdiction extended over the sea to a distance within reach of cannon shot; but that, in conformity with the example of the greater part of other States, including England, Italy had extended the zone within which the operations respecting Custom-house surveillance might be carried on to a distance of 10,000 metres from the coast, such disposition being, however, applicable only to Customs operations, and not to questions of territorial jurisdiction.‡

The practice of the United States with regard to the seizure by revenue cruisers of vessels beyond 1 league from the coast is stated on pp. 27 and 28 of Confidential No. 2633, and that of this country on pp. 31 to 35 of the same paper.

The indexes of Austria, Belgium, and Italy have been searched, but no trace can be found of any correspondence having arisen on the subject of the maritime jurisdiction claimed by these countries under their Customs laws.

It may be mentioned that Hall states that, subject to the doctrine of hot pursuit, the laws of a State can only run outside its territorial waters against the vessels and subjects of another State with the express or tacit consent of the latter.§

Wharton also states: "It may be said that the principle is settled that municipal seizures cannot be made for any purpose beyond territorial waters. It is also settled that the limit of these waters is, in the absence of Treaty, the marine league or the cannon shot. It cannot now be successfully maintained either that municipal visits and search may be made beyond the territorial waters for special purposes, or that there are different bounds of that territory for different objects."¶

(Signed) FREDK. H. T. STREATFIELD.

Foreign Office, September 15, 1890.

No. 34.

Sir E. Monson to the Marquess of Salisbury.—(Received October 11.)

(No. 232. Commercial.)

My Lord,

Paris, October 9, 1890.

WITH reference to my despatch No. 207, Commercial, of the 6th September last, I have the honour to transmit to your Lordship herewith a short Memorandum by Mr. Austin Lee upon M. Delcassé's reply to the protest I addressed to his Excellency, by your Lordship's instructions, against the terms of the recent Beylical Decree in Tunis empowering Custom-house officers to visit certain foreign vessels outside the recognized territorial limits.

In view of the facts therein contained, I am of opinion that no advantage would result from further pressing the matter, and that it might be advisable either to let it rest until a case for remonstrance has arisen, or simply to acknowledge M. Delcassé's

* Confidential Print No. 2633, pp. 24, 26.

† Confidential Print No. 2633, p. 17.

‡ Confidential Print No. 2633, p. 13.

§ Hall, 4th edition, p. 267.

¶ Wharton (Dana), p. 260.

note, and state that Her Majesty's Government must continue to maintain their contention that the Decree in question infringes recognized principles of international law as to the limits of territorial waters.

I have, &c.
(Signed) EDMUND MONSON.

Inclosure in No. 34.

Memorandum.

ARTICLE 7 of the Decree of the 4th Germinal, year 2 (the 24th March, 1794), provides that:—

"Les capitaines et autres officiers et préposés sur les bâtiments du service des Douanes, ceux de commerce ou de maritime militaire, pourront visiter tous bâtiments au-dessous de 100 tonneaux étant à l'ancre ou louvoyant dans les 4 lieues des côtes de France, hors le cas de force majeure."

This legislation is still in force, and M. Delcassé's statement that it has never given rise to any protest appears to be well founded.

From information received, his statement with regard to similar legislation existing in Austria-Hungary, Belgium, and Italy is correct.*

Inquiries have been made as to whether any protest has been lodged by the Governments of those countries against the new Tunisian Decree, and it appears that the Austrian Government have protested through their Agents, both in Paris and Tunis, against the Decree, not on the ground of its infringing the recognized limits of territorial waters, but of being in contravention of the provision of Article X of the Franco-Austrian Consular Convention of the 11th December, 1866, which provides that no ship can be visited without the previous consent of the Consul.

The French Government have replied to the Austrian Ambassador by stating that the new Decree in no way infringes the terms of the Convention, but point out that in practice these are very difficult of application.

The Italian Consul-General at Tunis is also said to have protested to the French Minister on the ground that the Decree is an infringement of Article VIII of the Italo-Tunisian Convention of the 28th September, 1891†

The German Embassy have received no instructions and made no protest on the subject.

(Signed) H. A. LEE.

Paris, October 9, 1899.

No. 35.

The Marquess of Salisbury to Sir E. Monson.

(No. 230. Commercial.)

Sir,

Foreign Office, December 19, 1899.

I HAVE had under my consideration your Excellency's despatches Nos. 207 and 232, Commercial, of the 8th September and 9th October respectively, relative to the Beylical Decree of the 20th May last, empowering the Tunisian customs officers to visit certain foreign vessels outside the recognized territorial limits.

I request that your Excellency will now address a note to the French Minister for Foreign Affairs, acknowledging the receipt of his Excellency's note of the 14th September, and stating that Her Majesty's Government must reserve their rights under the recognized principles of international law with regard to the limits of territorial waters.

I am, &c.
(Signed) SALISBURY.

* Further inquiries show that no such legislation exists now in Belgium.—H. A. L.
† Since the above Memorandum was written the Italian Embassy in Paris have received instructions to protest against the Beylical Decree as being in opposition to the provisions of the Consular Convention, which require that the Italian Consulate shall be warned of intended visit.—H. A. L.

No. 36.

Sir E. Monson to the Marquess of Salisbury.—(Received December 23.)

(No. 289. Commercial.)

My Lord,

Paris, December 20, 1899.

I HAVE the honour to transmit to your Lordship herewith a copy of a note which, in accordance with the instructions contained in your Lordship's despatch No. 230, Commercial, of the 19th instant, I have addressed to the French Minister for Foreign Affairs, informing him that, notwithstanding the Beylical Decree of the 20th May last, empowering Tunisian customs officers to visit certain foreign vessels outside the recognized territorial limits, Her Majesty's Government must reserve their rights under the recognized principles of international law with regard to the limits of territorial waters.

I have, &c.
(Signed) EDMUND MONSON.

Inclosure in No. 36.

Sir E. Monson to M. Delcassé.

M. le Ministre,

Paris, December 20, 1899.

I HAVE the honour to inform your Excellency that I communicated to Her Majesty's Government a copy of your note of the 4th September last, stating the reasons for which the French Government consider that the Beylical Decree of the 20th May last, empowering Tunisian customs officers to visit certain foreign vessels outside the recognized territorial limits, was no infringement of the general principles of international law.

I beg to inform you, M. le Ministre, that I have now received instructions from the Marquess of Salisbury to acquaint your Excellency that Her Majesty's Government regret that they are unable to share the views of the French Government upon the matter, and must reserve their rights under the recognized principles of international law with regard to the limits of territorial waters.

I have, &c.
(Signed) EDMUND MONSON.